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The **London Gazette**

THE LONDON GAZETTE & INSOLVENCY INFORMATION

**Online Survey Of
Insolvency Professionals
Undertaken For TSO**

Final Report January 2014

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See also: *Summary Analysis Prepared For Survey Participants*, Kingston Law School, April 2013
(A basic analysis of the online survey responses, and showing the questionnaire and response options) <http://eprints.kingston.ac.uk/25682/>

ACKNOWLEDGMENTS

The authors wish to register their gratitude to TSO, as the project sponsors, and to the survey participants.

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ABBREVIATIONS

ACCA	Association of Certified Chartered Accountants
CVA	Company Voluntary Arrangement
CVL	Creditors' Voluntary Liquidation
IA86	Insolvency Act 1986
ICAEW	Institute of Chartered Accountants in England and Wales
ICAI	Institute of Chartered Accountants in Ireland
ICAS	Institute of Chartered Accountants in Scotland
ILA	Insolvency Lawyers' Association
IP	Insolvency Practitioner
IPA	Insolvency Practitioners' Association
IPUIS	Insolvency Practitioner Unit of the Insolvency Service
IR86	Insolvency Rules 1986
IVA	Individual Voluntary Arrangement
LG	London Gazette
LSS	Law Society of Scotland
MVL	Members' Voluntary Liquidation
R3	Association of Business Recovery Professionals (Rescue, Renewal, Recovery)
RPB	Recognised Professional Body
SRA	Solicitors Regulation Authority (Law Society)
TSO	The Stationery Office

EXECUTIVE SUMMARY

- **Respondent profile** - The online survey respondents are **predominantly Insolvency Practitioners** (IPs, 57%), but also included **Solicitors** (17%) and **support staff for IPs** (16%). A substantial majority are located in England (86%).

This contrasts with a comparable online survey undertaken in-house by TSO a few months earlier, whereby the TSO respondents were **predominantly support staff for IPs** (66%), followed by **IPs** (20%).

- **Usage of regional editions of the Gazette** - The London edition recorded the widest readership (90%), followed by the Edinburgh (12%) and Belfast (5%) editions.
- **Print vs online usage** - Respondents marginally favoured **online usage only** (45%) over **dual paper and online usage** (41%).
- **Main information sought** - The commonest requirements are **winding-up petitions** (80%), followed by administration orders (67%) and bankruptcy notifications (64%).
- **Other information sought** - Other requirements included **creditors' voluntary liquidations** (CVLs) and **members' voluntary liquidations** (MVLs).
- **Main reasons for advertising in the Gazettes** - **Administration orders** represented the greatest demand (62%), followed by **bankruptcy notifications** (56%) and **winding-up petitions** (56%).
- **Other reasons for advertising in the Gazettes** - Other reasons included **CVLs** and **MVLs**.
- **Key sources of insolvency data** - The most widely-accessed source is the **Companies House web site** (37% of respondents, accessing daily or more frequently), followed by **the Gazettes** (30%, 1 to 4 times a month), and the

Insolvency News online service (24%, 1 to 4 times a month).

- **Other key sources of insolvency data** - These included **Creditsafe**, **Dear Insolvency Practitioner** (Insolvency Service), **Geoff Swire**, **Individual Insolvency Register** (Insolvency Service), and, **R3** (Association of Business Recovery Professionals).
 - **Quality of insolvency data published in the Gazettes** - Well over half of the respondents (61%) consider that the quality is either 'excellent' or 'very good'.
 - **Suggested improvements to the presentation and content of Gazette insolvency data** - almost a quarter of respondents offer suggestions for improvements (22%). These include: **refinements to the online search process**, the **availability of output in .CSV or Microsoft Excel formats**, and, **compatibility with proprietary IP case management software**.
 - **Respondent expenditure on insolvency publications/services** - Almost a third of respondents indicate that their local office expenditure is less than £1,000 annually (31% of respondents).
 - **Use of the Gazettes for practice development** - Only 9% of the respondents report using the Gazettes for **business development purposes**. However, **larger practices are twice as likely as the average to use the Gazettes for this purpose** (18% of respondents with an annual fee income of £25m or more).
- Examples of such use included:
- "Identifying winding-up petitions"
 - "Monitoring insolvency activity in certain regions and where applicable establishing whether the accountants/lawyers are known to the firm"
 - "To analyse number of MVLs"
 - "To identify appointing parties (e.g. administrations) and ascertain whether our relationship with them needs further development"

- **Use of the Gazettes for competitive tracking** - 14% of the respondents reported using the Gazettes for competitive tracking. **Larger practices were much more likely than the overall sample to use the Gazettes for this purpose** (33% of respondents with an annual fee income of £25m or more).

Examples included:

- *"Analysis of appointments/appointers"*
- *"Awareness as to what other firms in Belfast are obtaining appointments"*
- *"Collating numbers of appointments of other firms"*
- *"Monitoring Trust Deed numbers & Liquidation appointments"*
- *"Review of MVL appointments"*
- *"To check on block transfers of appointments"*
- *"To identify firms being appointed and to the business sectors"*

- **Suggestions for other information/notices which could usefully be included in the Gazettes to help practices** - 14% of the respondents offer a range of suggestions, and the most commonly cited relates to **The Law of Property Act Receivership**.

Additional suggestions for other information/notices included:

- *"A searchable database of CCJs" [County Court Judgments]*
- *"A searchable list of registered deaths as some of our bankruptcy estates realise pension policies"*
- *"Better information on the nature of the insolvent company's business" [noting that Articles of Association are often general, out of date, or misleading.]*
- *"Consistency with trading addresses on all adverts"*
- *"CVA/IVA if legislation were changed" (Company Voluntary Arrangements, Individual Voluntary Arrangements)*
- *"Fixed charge appointments"*
- *"Geographic analysis of insolvency appointments and analysis by sector"*
- *"LPA Receiverships appointment detail would be useful in so far as it relates to corporate borrowers"*
- *"Proceeds of Crime Act receivership"*

- **Service standards of the Gazettes** - Almost two-thirds of the respondents answering the question (63%) consider the service standards to be either 'excellent' or 'very good'.

Respondent profile for online survey

- **Membership of recognized professional bodies** - The **Insolvency Practitioners Association** is the most commonly cited body by respondents (IPA, 43%), followed by the **Institute of Chartered Accountants in England & Wales** (ICAEW, 26%), and, **The Law Society** (18%).
- **Length of experience in the insolvency industry** - Over half of the respondents (55%) report working in the sector for more than 20 years.
- **Size of practice** - **Approximately a third of respondents (35%) work in a 'single-branch' practice based in the UK**. However, a similar proportion (33%) work for practices having multiple offices located in the UK only, and 30% work for multiple-office practices in the UK and/or internationally.
- **Local branch staff size** - 60% of the local branches in which respondents worked have fewer than 25 staff.
- **Practice fee income** - Nearly a half of respondents (47%) report working for practices with an annual income of less than £5 million (for all offices).
- **Age of respondents** - Just over a half of respondents (51%) are 46 years of age or older.
- **Gender of respondents** - Male respondents outnumber female respondents by approximately two to one (66% male to 32% female).

In-house surveys

- **Composition of surveyed samples** - the target audience for survey invitations needs to be kept in mind when interpreting survey responses, as does the final sample composition and likely

bias. Questionnaires should solicit key information which may help to gauge the extent of any bias, such as respondent key function, age, gender, physical location, staff size, highest qualification and professional affiliation.

activity might provide a further insight into regional variations.

- **Generalising findings to a larger population** - in the absence of a random sample, generalising is problematic (see Appendix 2). But with relatively small populations, random selection can be impractical. Comparisons with other surveys may be helpful, but bias - especially self-selection bias - is an attendant risk.

Further research

- **Improving current insolvency data** - the Gazette may offer a useful opportunity to improve upon the current insolvency data, requiring an analysis for each edition falling within a given time frame. The adoption of an automated process, using data held in a standardised format, may make this a relatively simple and straightforward task.
- **Early awareness of insolvent debtors amongst the business community** - a survey of UK businesses, enquiring into the predominant channels by which they first learn about insolvent debtors, could help to clarify the role of the Gazette in assisting trade creditors. The sample might be sufficiently large to ascertain whether there are any particular issues for consideration in terms of one or more of: small and/or medium-sized enterprises (SMEs), broad industry sectors, and, the regions.
- **Profiling the IP sector** - there may be some scope for analysing 'mandatory' membership data, for example, as gathered by an IP body such as R3, to provide a more comprehensive and reliable profile of the sector.
- **Regular usage of regional editions of the Gazettes** - our sample contained only a small number of respondents who were based outside England, but a further survey and/or analysis of Official Receiver

1. INTRODUCTION

The London Gazette was first published as **The Oxford Gazette** in 1665. It is Great Britain's oldest continuously-published newspaper and it has a long history of publishing insolvency-related information.

This survey was commissioned in 2012 by TSO - publishers of The Gazette series - to investigate IP use of insolvency information in their publications.

Our analysis relies heavily upon an online survey undertaken by Kingston Law School during February-March 2012, as a result of e-mailing invitations to approximately 2,950 named contacts, predominantly members of the Association of Business Recovery Professionals (R3). The sample base is 169 respondents who completed the survey (5.7% of the target audience).

This analysis is complemented by an earlier report - **Summary Analysis Prepared For Survey Participants**, April 2013 - which contains a basic analysis of the survey responses, and also the questionnaire and response option wording, and may be downloaded from: <http://eprints.kingston.ac.uk/25682/>

2. PROJECT OBJECTIVES

The research aimed to investigate how practitioners use *The London Gazette* (and regional counterparts) and the insolvency information contained within its pages and on the website. It arises from Mr Justice Morritt's contention:

"I consider that the efficacy of an advertisement in the London Gazette has been exaggerated by both sides. No doubt it alerts the company's bankers so that an order under sec. 127 of the Insolvency Act may be required in order that the company may continue to trade. But I do not think that the Gazette is so widely read that an advertisement would alert ordinary trade creditors, who would not discover the existence of the petition by other means anyway. By the same token, the Secretary of State's concern that a petition presented in the public interest should

*be brought to the attention of the public is hardly allayed by advertising it in the Gazette. Nevertheless, the rules require advertisement unless the court otherwise directs. Thus it is for the company to show sufficient reason to depart from the normal practice."*¹

In answering this central question, the following areas, *inter alia*, would be investigated:

1. Whether the speed of publication makes *The London Gazette* useful as an early indicator of insolvency levels (in advance of the official statistics). *The London Gazette* is available immediately whilst the official data can be up to four months behind.
2. Whether or not from the point of view of insolvency professionals *The London Gazette* does a "good job".
3. From the point of view of insolvency professionals how *The London Gazette* could improve.
4. What the profession wants from *The London Gazette*.
5. The use of *The London Gazette* by IPs for business development purposes.
6. The use of *The London Gazette* by IPs for competitive tracking purposes.
7. Whether there are specific areas of insolvency (corporate in particular) to which value/effectiveness could be added through Gazetting – Law of Property Act Receivership for example.
8. Whether access to *London Gazette* data has stimulated niche, value generating service industries (e.g. services which consolidate information on dividends).

¹ *Re Normandy Marketing Ltd* [1993] B.C.C. 879. There has been positive judicial discussion of *The London Gazette*. In *Life Enterprises Ltd v The Commissioners for Her Majesty's Revenue and Customs* [2009] UKFTT 340 (TC) Judge John Brown noted that, "**Further, it became clear in reply to later questions that Mr Mote did not understand the importance of the Gazette entry.**" (authors' emphasis)

**A Nineteenth Century Notice of Conformity
in *The London Gazette***

CHARLES PHILLIPS, Esq. one of Her Majesty's Commissioners authorized to act under a Fiat in Bankruptcy, bearing date the 1st day of November 1844, awarded and issued forth against Robert Edwards Walker, of Liverpool, in the county of Lancaster, Merchant and Ship Broker, lately trading there with William Henry Fitzhugh, as Copartners, under the style or firm of Fitzhugh, Walker, and Company, has, on the application of the said Robert Edwards Walker, appointed a public sitting under such Fiat to be holden on the 29th day of January instant, at twelve o'clock at noon precisely, at the Liverpool District Court of Bankruptcy, in Liverpool, for the allowance or otherwise of the Certificate of conformity to the said bankrupt, and when the same will be allowed unless sufficient cause be shewn against the allowance thereof.

9. Whether there is evidence that creditors find *The London Gazette* an effective way to find out about events.
10. What are the benefits and disadvantages of a *London Gazette* type service as compared with a Companies House type register service or an insolvency register type service. Do these various registers and information providers fit together? Is one better than the other?
11. The research would also investigate potential ideas and areas for expansion regarding how *The London Gazette* could extend its service in non-mandatory directions, for example uploading other documents from which the mandatory notice would be automatically extracted and the balance of the information displayed online and the interested parties e-mailed/written to.

3. BACKGROUND

As noted above, *The London Gazette* was first published as *The Oxford Gazette* in November 1665². It is Great Britain's oldest continuously-published newspaper and it has a long history of publishing insolvency-related information.

The London Gazette's stated aim is to "disseminate ... knowledge of insolvency events to those who need to know; and facilitate... the

re-use of the data by others."³

Historical insolvency information can be traced at least to the nineteenth century. For example, information regarding certificates of conformity were published as early as 1845⁴ (an example from that year is shown above⁵).

In modern practice there are a number of specific provisions within the Insolvency Act 1986 (IA86) and Insolvency Rules 1986 (IR86) that make reference to *The London Gazette*. Throughout the statute and rules *The London Gazette* is referred to as "The Gazette"⁶. The statute and rules contains a number of provisions that stipulate when *The London Gazette* must be used in relation to several corporate and personal insolvency advertising

³ <http://www.london-gazette.co.uk/insolvency>

⁴ The certificate of conformity was first introduced during the reign of Queen Anne. It continued to play a central role in bankruptcy discharge pursuant to a number of subsequent statutes. The certificate of conformity was a statement that the bankrupt had satisfied all relevant legal requirements. The certificate of conformity discharged the bankrupt and any of their after-acquired property from any debts that had been provable in his or her bankruptcy. Creditors, if they so desired, would sign the certificate. If a specified majority had signed, and the Lord Chancellor then confirmed the certificate, the bankrupt would be discharged from their bankruptcy liabilities.

⁵ Source: *The London Gazette*, issue 20430, 7 January 1845, printed page p60, online search page 24 of 32

⁶ s.251 of the IA86 stipulates that "The Gazette" means— (a) as respects companies registered in England and Wales, the *London Gazette*; (b) as respects companies registered in Scotland, the *Edinburgh Gazette*."

² Handover, P. M., *A History of the London Gazette: 1665-1965*. HMSO; London. 1965

issues.⁷

4. METHODOLOGY

■ **Online survey** - Qualtrics survey software was used to manage the data collection and analysis⁸, gathered via personally-addressed e-mailed invitations.

■ **Target audience** - 2,953 named contacts, predominantly members of the Association of Business Recovery Professionals (R3)⁹, followed by a number of members of Insolvency Lawyers' Association¹⁰, and supplemented by a list of e-mail addresses received from TSO (part of the respondent sample for the 'Gazette Insolvency Practitioner Survey' conducted in October-November 2011), plus a number of Kingston Law School contacts. The TSO list was also edited to remove 'no further contact' respondents from the TSO survey.

Source	No. Addressees
R3	2,612
ILA	237
TSO	97
Kingston Law School contacts	7
TOTAL	2,953

■ **Questionnaire design & piloting** - the design progressed via 4 off draft versions, with draft versions supplied to the client (TSO) and also a panel of IPs for feedback. For comparison, the survey included three questions which were very similar to those used in a previous TSO in-house survey, 'Gazette Insolvency Practitioner Survey' (regarding: respondent role, Gazette service standards, and the length of respondent experience in the insolvency industry).

The questionnaire was designed to include key variables - such as

respondent age, gender, practice size - so as to permit further insight via cross-tabulated analyses.

■ **Survey periods** - 28th February to 14th March 2012 (predominantly members of the Association of Business Recovery Professionals), and 15th to 30th March 2012 (predominantly members of the Insolvency Law Association).

■ **Response rates** - a total of 251 respondents started the online questionnaire. Of these, the Qualtrics software indicated that 169 of these had completed the questionnaire (excluding the deletion of responses from 2 survey participants for whom we were unable to resolve staff size queries).

The base for our analysis is the 169 responses, 5.7% of the mailed audience (2,953 addressees).

■ **Follow-up interviews** - Four telephone interviews were conducted on the 28th March 2013: one interviewee was amongst the 169 respondents in the sample who had completed the online survey. He/she had also requested a copy of the summary report (below). The other interviewees were not amongst the 169 respondents, but were previously known to Kingston Law School.

The line of questioning explored further the issues raised by the online questionnaire.

A fifth interviewee, an IP, was used to solicit views on several issues by telephone early December 2013 (and who had not submitted a response to the online survey).

Overall, the follow-up interviewees comprised three IPs, a solicitor and an advertising agent serving the IP market.

■ **Distribution of summary report to participants** - an Acrobat version of the summary report¹¹ was e-mailed, on the 24th May 2013, to those respondents who

⁷ See Appendix #1 (Statutory Provisions that require the Gazetting of insolvency information) for a discussion of the various provisions.

⁸ <http://www.qualtrics.com/>

⁹ <http://www.r3.org.uk>

¹⁰ <http://www.ilauk.org>

¹¹ <http://eprints.kingston.ac.uk/25682/>

had requested a copy and also completed the survey (86).

- **Response analysis** - the cross-tabulated analyses were generated by the Qualtrics software, and exported as Microsoft Excel tables for further adaptation.

A set of cross-tabulated analyses for each of the following key variables was produced:

Q1 Respondent Primary Role
Q21 Respondent Experience (number of years working in the insolvency industry)
Q22 Respondent Practice Size (small-large)
Q23 Respondent Practice Staff Size (number of staff)
Q24 Respondent Practice Fee Income
Q25 Respondent Age
Q26 Respondent Gender

Tables displaying what were considered to be interesting similarities or differences are shown in the following section, with selected response analyses plotted in graphical form.

Comments supplied by respondents and interviewees are reproduced verbatim, apart from a small number of minor typographical corrections (primarily in the comments received online). Also, non-responses to questions are typically low, and are generally excluded from the following figures. Finally, the youngest age band (18-25 years' old) has been excluded from the age-related figures, because it includes only two respondents, but their responses have been included where the full age spectrum would apply.

5. ANALYSIS OF DATA

Background to IPs in the UK

There are around 1900 IPs practising in the United Kingdom. These IPs are qualified to take appointments in the UK, but not all do. Only a proportion of this figure take appointments. These appointment-taking IPs are supported by teams of support staff, who in some case are qualified but they do not take appointments. In other cases these support team members do not hold a relevant insolvency qualification, but

they may be working towards one. In addition to the support team caveat it should also be noted that the published figures on the BIS website includes a number of non UK resident IPs. Again these IPs have licences but they do not take appointments.

With these caveats in place it can be stated that there are approximately 850 IPs who actually take appointments. The best source of data to determine at any one time exactly how many IPs are appointment-taking (as opposed to working in support of those IPs who do as either support team or a qualified IP) is the enabling bond data which can be obtained from the various insurers who provide bond cover ¹². The exact number of bond covered IPs is not publicly available.

In terms of background, IPs are typically accountants who have gone on to qualify as IPs by taking an additional insolvency qualification. There are exemptions to this. A small number of lawyers are dual qualified as IPs. There are also a number of IPs currently in practice who were 'grandfathered' in to the current profession following the introduction of the Insolvency Act 1986, i.e. their experience was sufficient to enable qualification, as at the relevant time they had not, say, and passed the Joint Insolvency Examination.

All IPs are required to be a member of an RPB (Recognised Professional Body). IPs exist as a self-regulated profession. A large proportion of IPs are also members of the main trade body, R3.

The intention of this survey was to reach as broad a population of IPs as possible in terms of their typical characteristics (age, gender, experience, membership of professional bodies, etc.). We wished to gauge the opinion of a broad range of IPs regarding their views of the LG and its insolvency use. We did not want to artificially restrict the target audience and those who were sent the original survey were not picked on the basis of any characteristic other than that of being an IP or someone who works for an IP, whether in the formative stages of training or otherwise. Nonetheless,

¹² On bonds see further: Tribe, J. & Hunt, S. (2012) *Insolvency bonds: history, policy and substance*. *Insolvency Intelligence*, 25(3), pp. 37-45. See also: Tribe, J & Hunt, S. *Insolvency Bonds: Practice and Reform* (forthcoming) *Insolvency Intelligence*

the sample is prone to self-selection.

Caveats

The target population is relatively small - for example, *approximately two thousand* in comparison with *several million* businesses in the UK - which would usefully reduce the sample size necessary to achieve a given accuracy, assuming a **random** selection (see also Appendix #2: Note On Sampling & Small Populations).

However, with arguably limited scope for compiling a sufficiently large and suitably random sample - for example, after allowing for low invitation:acceptance response rates - sample recruitment in this case relied upon **voluntary participation**. The sample composition is therefore subject to the risk of bias from self-selection, and is a **non-probability** or **non-random** sample.

Accordingly, this limits the scope for generalising the findings to a wider population, such as all UK insolvency professionals.

Also, the respondents derive from at least three distinct groups, as determined by their primary role, namely:

- **IPs** (57% of the usable sample where n=169 overall)
- **Administrative support staff to IPs** (16%), and,
- **Solicitors** (17%)

Consequently these groups are relatively small and their response values will be accompanied by appreciable uncertainties.

Nonetheless, the analyses and findings as presented, with reference to the key variables, might be considered as **indicative**, rather than **definitive**. Thus the hope is that they will inform both commercial and academic interests, and will also stimulate further debate and research. Moreover, they should provide a useful basis for comparison with subsequent studies which replicate one or more parts of our survey.

Comparison with TSO Online Survey

The TSO conducted an internally-managed

online survey a few months prior to the Kingston Law School survey, and selected comparisons have been included in our analysis.

The data collection period for the TSO online survey commenced on the 20th October 2011, and closed on the 4th November 2011. Also, the invited audience of TSO contacts was offered the opportunity of winning an iPad as an incentive to participate, noted on the opening page of the online questionnaire:

"The Gazette is continually seeking ways to improve service levels and will be embarking on a major investment programme. To maximize the benefits of this investment, we would really like to know more about advertisers, what they value, and how they perceive and use the Gazette."

"To say thank you for your input, we are offering respondents entry into a prize draw to win a 16GB Apple iPad®. To enter, please complete this survey and leave us your contact details by the 4th November 2011."*

The TSO data analysed here was downloaded from their survey account in February 2012, and comprises a total of 222 responses (the original dataset comprised 223 responses, but we deleted one set for which the respondent's main role/function was not given).

Comparison with CEBR Survey of R3 Members

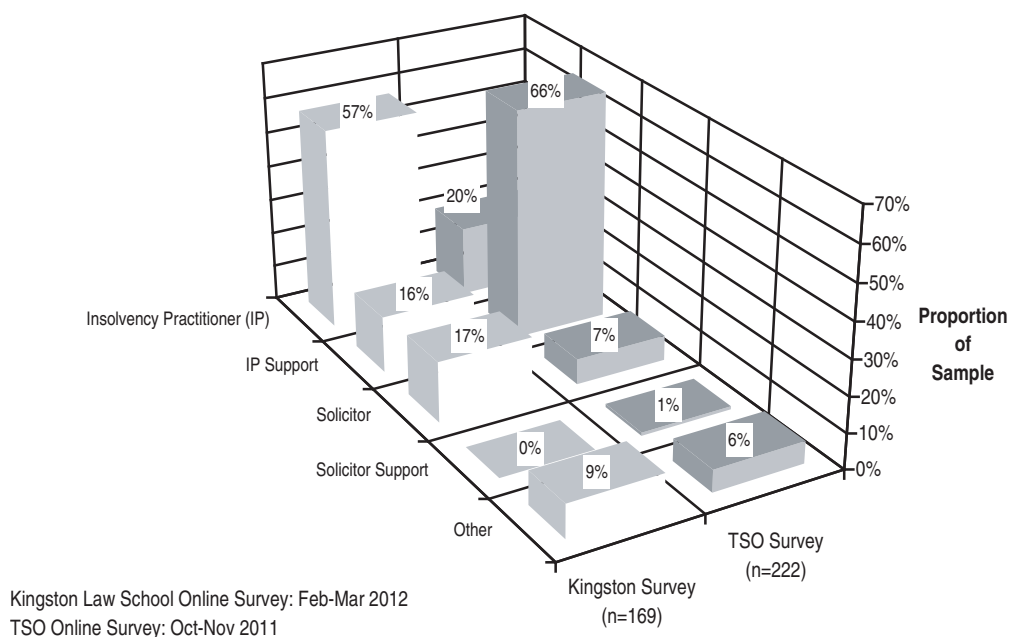
A previous survey of IPs in the UK was published in 2008 (*The value of the insolvency industry*, CEBR, 2008), which used a similar survey methodology to the Kingston study, i.e., via an invitation to participate, sent to R3 members by e-mail.

CEBR reported that they received a total of 169 responses, with 109 classifying themselves as IPs. The aim of the CEBR/R3 survey was to assess the economic impact of the sector, but the findings contained some interesting similarities (see Appendix #3).

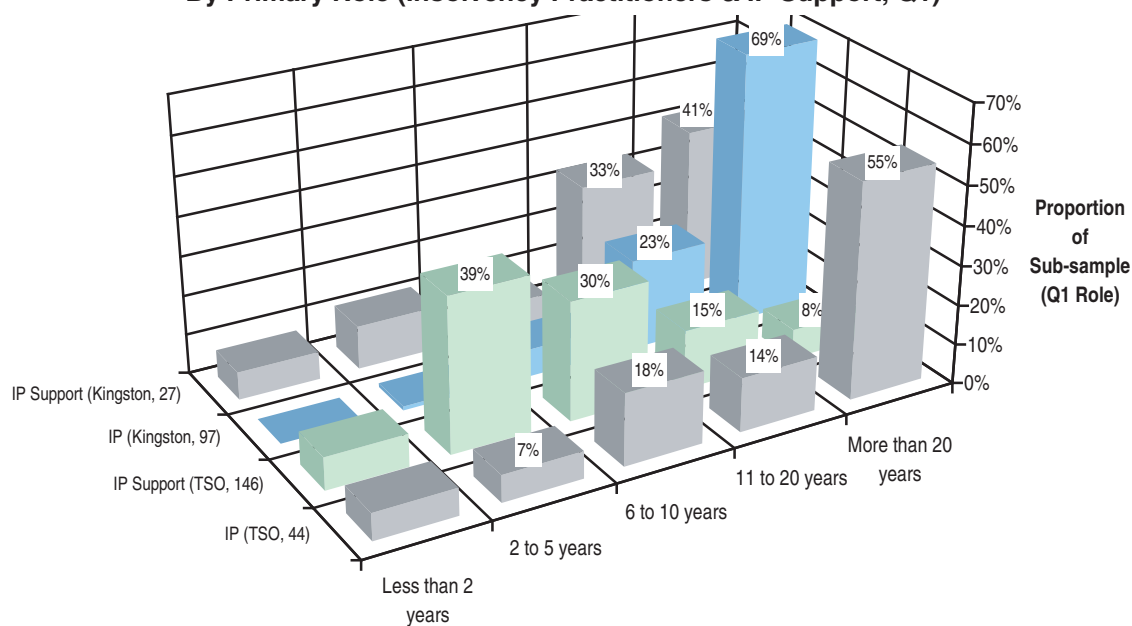
Respondents' Primary Role

Figure 1 indicates that the 'Kingston' and TSO survey samples are each dominated by

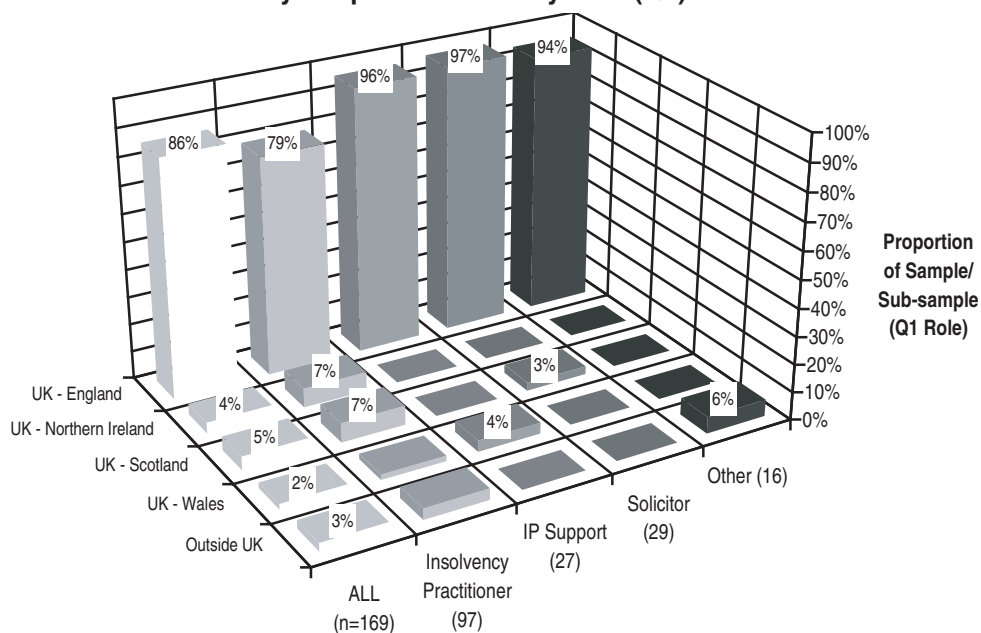
**Fig 1 - Comparison of Kingston Law School & TSO Surveys:
Respondent Primary Role/Main Function (Q1)**



**Fig 2 - Comparison of Kingston Law School & TSO Surveys:
Respondents' Length of Time Working in Insolvency Industry (Q21)
By Primary Role (Insolvency Practitioners & IP Support, Q1)**



**Fig 3 - Respondents' Location of Office/Usual Workplace (Q2)
By Respondent Primary Role (Q1)**



a different group of respondents.

The Kingston Law School survey is dominated by **IPs** (57% of the respective sample), and the TSO survey by **support staff to IPs** (66%).

The TSO sample composition may be influenced by the role of the person who typically places advertisements in the Gazette, a task more likely to be delegated, especially in larger practices. And if so, this would contrast with the Kingston target audience - predominantly members of the Association of Business Recovery Professionals (R3) - where full members are required to be regulated by an RPB.

Length of experience in the insolvency industry

Figure 2 indicates that the length of experience in the insolvency industry is markedly different for the two predominant groups: a sizeable majority of Kingston's IPs report a period of over 20 years (69%), whereas the TSO **support staff to IPs** have a shorter period, with a comparable majority reporting between 2 and 10 years' experience (39% + 30% = 69%).

The predominant groups in each of the respective surveys are shown in different colours in **Figure 2**, to emphasise the respective age profiles within the two samples.

Also, the Kingston **support staff to IPs** are biased towards a longer rather than shorter length of time in the insolvency business, in contrast to their counterparts in the TSO survey.

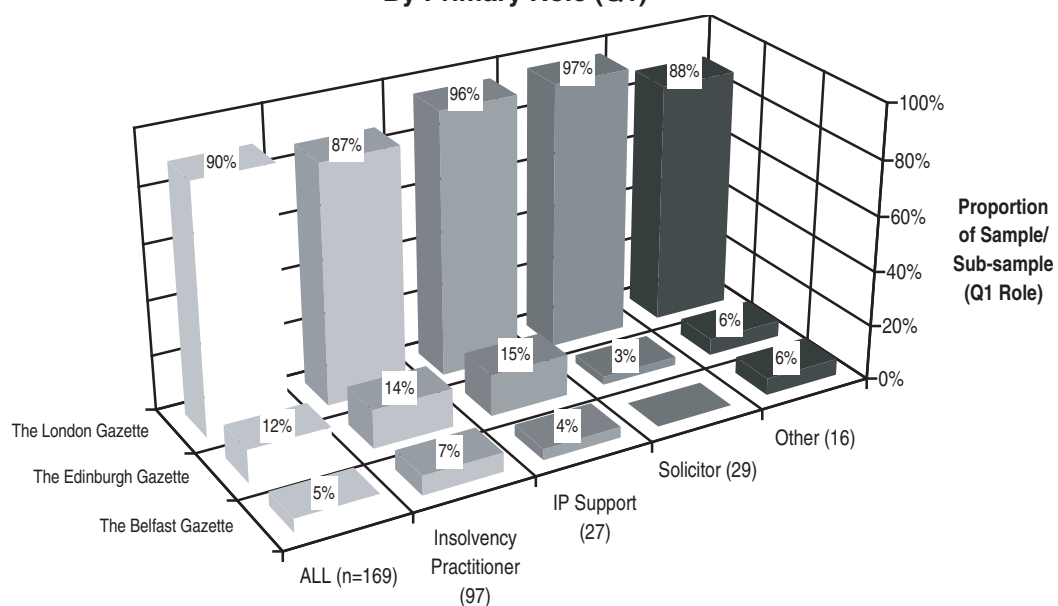
Location of office/usual workplace

The vast bulk of Kingston respondents are based in England (86%, **Figure 3**), with some dispersion of IPs based in Scotland and Northern Ireland.

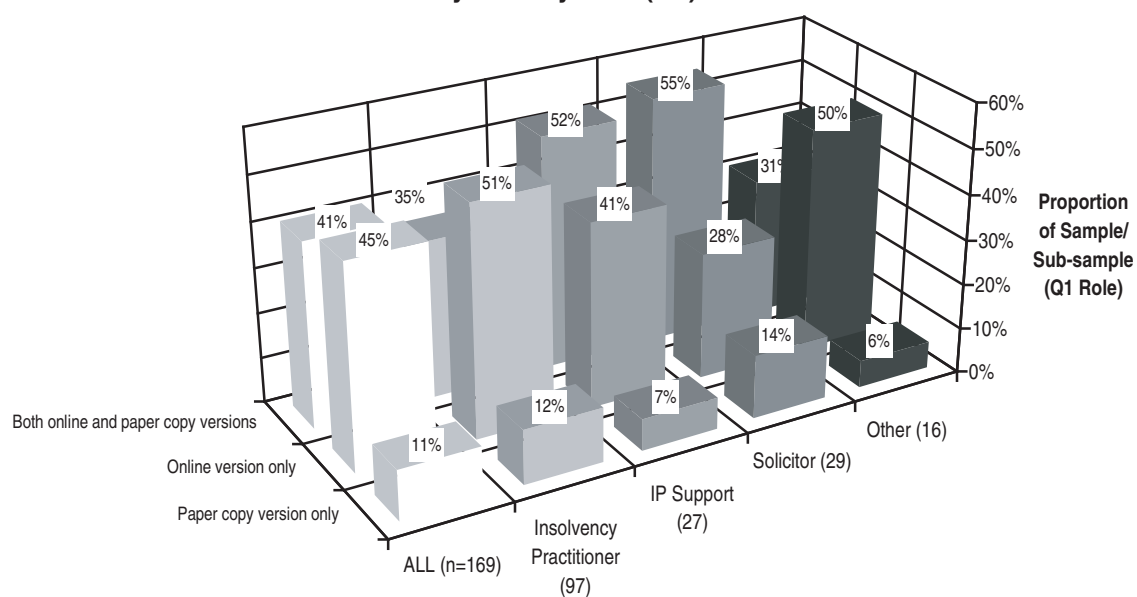
One of the IPs in the follow-up interviews noted:

"Nominally I sit in central London but the role obviously requires me to move all around the country and review files wherever... I have a separate role as Leader of [deleted] which is oversight for other functions and other practices around the world, so Ireland, Channel

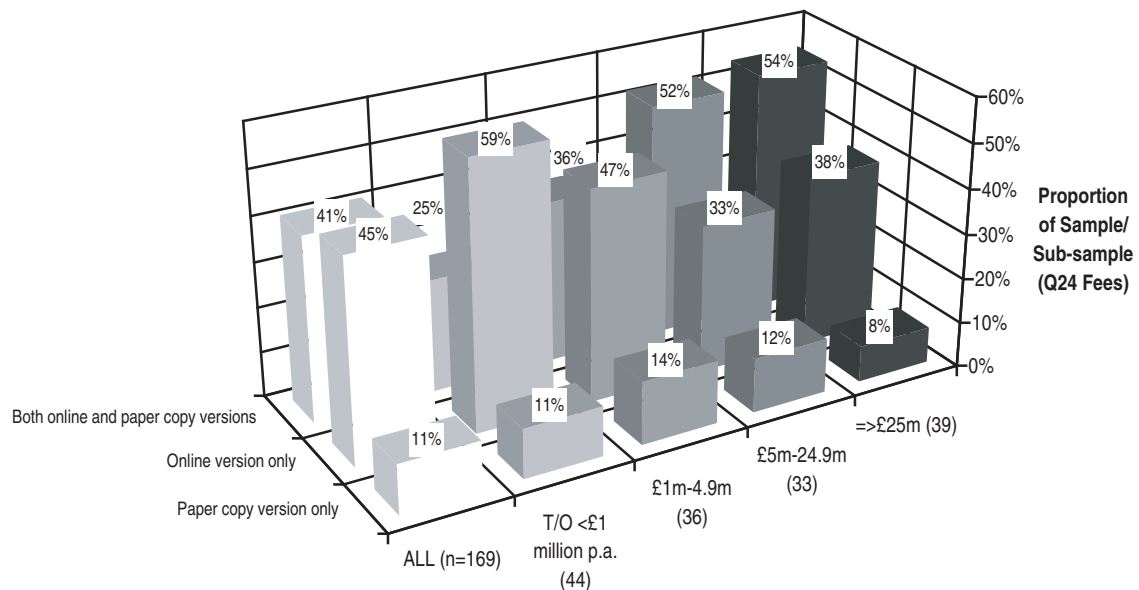
**Fig 4 - Regular Use Of Regional Gazettes (Q3)
By Primary Role (Q1)**



**Fig 5 - Team Use Of Printed/Online Gazettes (Q4)
By Primary Role (Q1)**



**Fig 6 - Team Use Of Printed/Online Gazettes (Q4)
By Practice Fee Income (All Branches, Q24)**



Islands and other countries, I have done Germany and so on around the world.” (Respondent Pine)

Regular use of the regional Gazettes

The London edition recorded the widest readership (90%), followed by the Edinburgh (12%) and Belfast (5%) editions (**Figure 4**).

A minor proportion of IPs and their staff also regularly use *The Edinburgh Gazette* (around 15%). But an IP interviewee explained:

“I always use The London Gazette because I’m only licensed as an insolvency practitioner to practise in England and Wales.” (Respondent Oak)

Solicitors’ low usage of the regional editions beyond *The London Gazette* (97%) - e.g., *The Edinburgh Gazette* (3%) - corresponds closely with a strong bias towards England-based solicitors in the sample (**Figure 3**).

Use of printed/online Gazettes

Respondents marginally favoured exclusive online usage (45%, **Figure 5**) over dual paper and online versions (41%). Exclusive use of the printed versions is limited (11%).

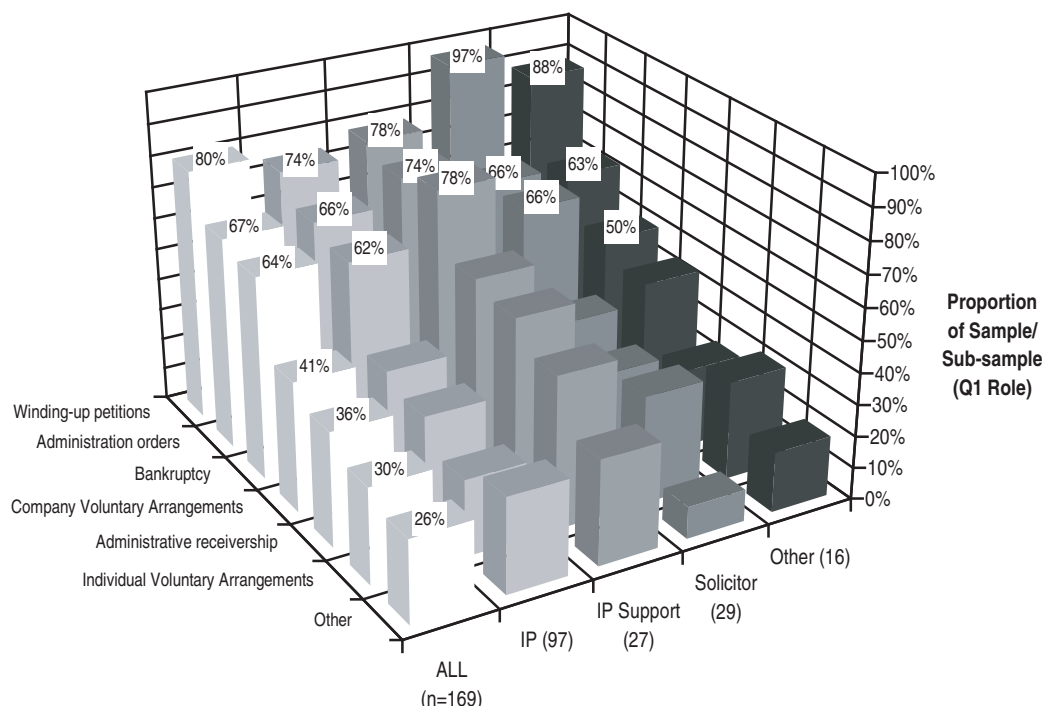
Solicitors are those least inclined to rely exclusively on the online version (28%, vs. 51% of IPs).

Respondents, overall, are more likely to use both the online and printed versions in the larger income practices (rising from 25% for the smallest, to 54% for the largest, **Figure 6**).

Our solicitor interviewee said that his preference for any given format depended upon the circumstances:

“My primary use is to place advertisements primarily for winding-up petitions, but also reuse of company names. I will advertise a piece of legal information that I want to be published to the world in general, in accordance with the insolvency legislation, and then as

**Fig 7 - Reasons For Seeking Information Via The Gazettes (Q5)
By Primary Role (Q1)**



part of that advert, I will request the hard copy be sent to me so I have paper evidence that the advertisement was published, and so the world in general has been told about it and I will always receive the hard copy of The London Gazette. But if I am searching for something in relation to a company that I'm interested in, which may have undergone a process that causes a notice to be published, then I will search the online London Gazette. I will go to the insolvency section, look under the companies, put in the name of the company, and see what comes up. [I can] see if there has been a section 98 meeting or some sort of other indication, perhaps administration or whatever, or just liquidation generally, or a winding-up order that relates to that company, and I will get my information that way."
(Respondent Beech)

An IP interviewee said:

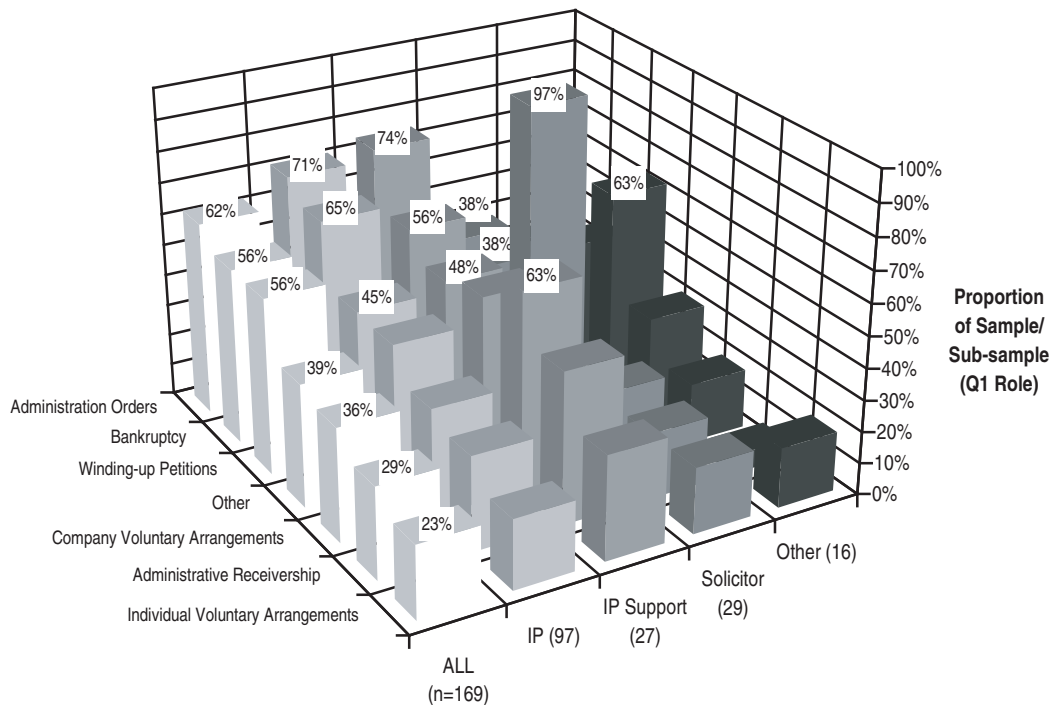
"I don't take the hard copy because I'm usually sitting at my desk with

access to the Internet, so I can always access the Gazette online. Another reason is because when I file notices in the Gazette, they send me by e-mail a PDF of the notice which has gone in the Gazette, which I can print off and add to the file to show what is my statutory duty to advertise."
(Respondent Oak)

In response to a question about the checking of administration orders, another IP mentions a planned transition to a paperless operation:

"Yes, and that will apply across all those procedures, so for each one of them I will be looking for the proper use of the Gazette on files. If I can't find it, I will then search on line, which is where I'm coming from when I'm saying we use a mixture of paper and electronic versions, though obviously within the next 18 months to 2 years we are going to try to move towards paperless in any event. In which case, we won't actually have paper copies of an awful lot more of the documents. There might be scanned copies if there

**Fig 8 - Reasons For Advertising Via The Gazettes (Q7)
By Primary Role (Q1)**



is something that we can't download directly, so if there is a document that we need to convert, then obviously we would need to scan it, but in most cases we would download an electronic version. (Respondent Pine)

Reasons for seeking information via The Gazettes

The greatest demand relates to winding-up petitions (80%, **Figure 7**), followed by administration orders (67%) and bankruptcy notifications (64%).

Other information sought includes CVLs and MVLs.

There is an overwhelming requirement amongst solicitors for information about winding-up petitions (97%).

Reasons for advertising via The Gazettes

Administration orders represent main reasons for advertising in the Gazettes (62%, **Figure 8**), followed by bankruptcy notifications (56%) and winding-up petitions (56%).

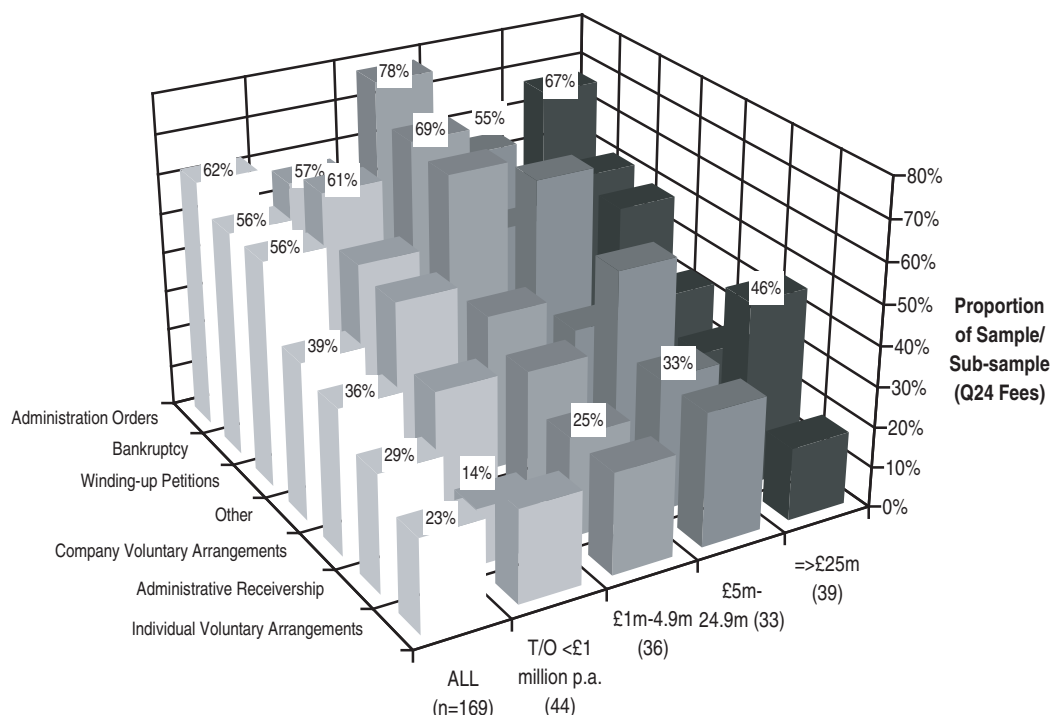
Other reasons for advertising in the Gazettes included CVLs and MVLs.

As with information sought, there is a similar overwhelming requirement amongst solicitors for placing notices about winding-up petitions (97%), but with appreciably less demand for administration orders and bankruptcy notices (both 38%).

There is a noticeable increase in the likelihood of larger practices to advertise administrative receiverships via the Gazettes, rising from 14% of the smallest practices, to 46% for those with an annual fee income of £25 million or above (**Figure 9**). This presumably reflects a tendency by the bank panels to appoint larger practices for debts in excess of £200,000, as reported by the Office of Fair Trading in 2010 ¹³.

¹³ "Most banks operate 'panels' to select IP firms for insolvency cases where indebtedness to the bank exceeds £200,000. While panels may pose a barrier to smaller firms trying to expand to handle larger insolvencies, our data suggests this it is not insurmountable. Approximately 25 different firms are on one or more bank panels, representing 40 per cent of IPs. Additionally, 30 per cent of insolvencies where the bank is owed more than £200,000 are dealt with by a nonpanel firm..." (OFT, 2010)

**Fig 9 - Reasons For Advertising Via The Gazettes (Q7)
By Practice Fee Income (All Branches, Q24)**



Regarding the **winding-up process**, the solicitor interviewee noted:

"If I'm instigating the winding-up and acting for a petitioner, then I will be advertising the petition and presenting a notice which goes in the prescribed form which goes in the relevant section. I will transmit that in paper copy with a cheque to The Stationery Office and say: please publish this advert in the next printed edition of The London Gazette and please also send me a copy of the edition that is published. That's when I'm instigating the process and I'm responding to a requirement in the insolvency rules to advertise a petition, because I'm acting for the petitioner." (Respondent Beech)

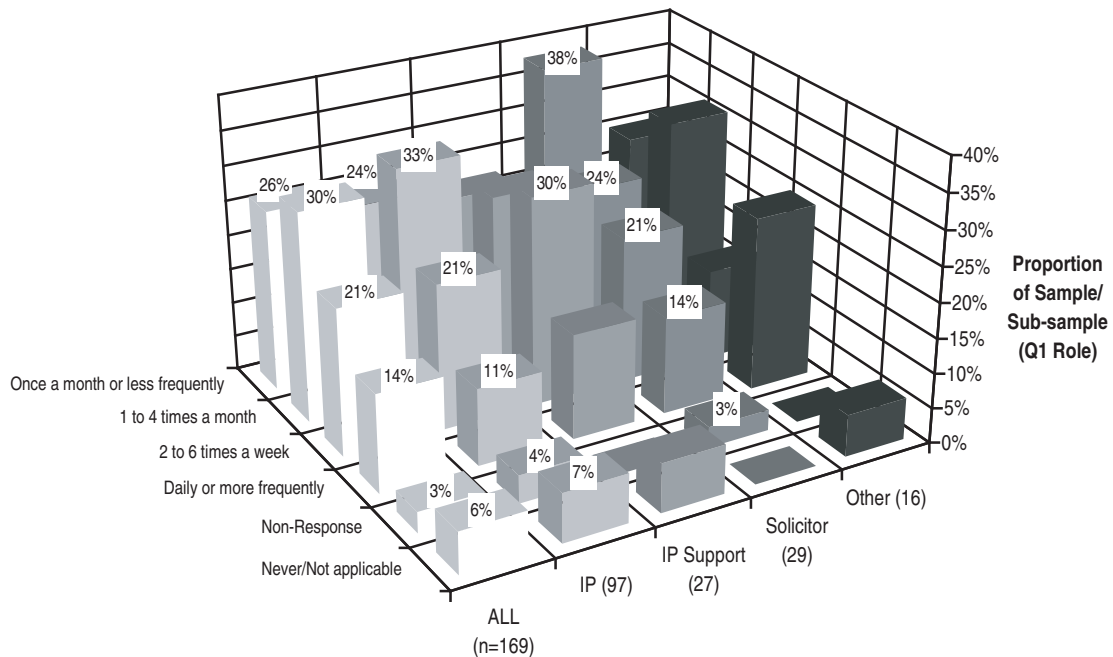
For **administrations** (followed by an IP's response):

Solicitor - *"I don't tend to do anything with administrations on a proactive side, because once the administration has been dealt with at court which I would deal with, we've got notices of*

intention and notices of appointment of administrators. The insolvency practitioners, in my experience, tend to do all the filings from thereon in once they are appointed, and obviously because, as you know, the administration process doesn't require the petitioner to advertise. And so I don't think I've ever filed anything in relation to administration, other than in relation to [s.] 216 which is very different." (Respondent Beech)

IP - *"I file in the Gazette for administrations orders. I've got a statutory duty to do that. I used the Gazette recently online, to check to see if a company that I was potentially going to be appointed liquidator over had gone into administration. I couldn't find the administration order, but what I did was go onto Companies House, because most practitioners when they file in the Gazette they will file in Companies House at the same time, so you can use the two in tandem with each other. So if you can't find it in the Gazette you can check on Companies*

**Fig 10 - Frequency Of Accessing Insolvency Data
Via The Gazettes (Q9), By Primary Role (Q1)**



House... It's easier to use Companies House, because you have to search [by general expression] in the Gazette, whereas if you do a search on a name in Companies House, then you have a filing list. All the documents have been filed there [are] at your fingertips. I sometimes find it quite difficult to search through the Gazette, especially if you don't know the exact name of the company it can be quite difficult, or if you don't know the date or anything like that." (Respondent Oak)

And bankruptcy:

Solicitor - "No, never filed a form on that. I've never tried to advertise a petition through the Gazette as a way of bringing it to the attention of the debtor, that's just never arisen. Obviously the bankruptcy process where I'm almost always acting for the petitioner doesn't require the petitioner to advertise, and so I've never submitted anything to The London Gazette in respect of a bankruptcy." (Respondent Beech)

Company voluntary arrangements (CVAs):

Solicitor - "I wouldn't necessarily know I was looking for a CVA. I'd be interested in a company perhaps because of a debtor, or we thought it was going bust in some way shape or form. And so I would do a generic enquiry through the website on the corporate insolvency section, and I would just put in the name of the company and see what came out. And so it wouldn't be a specific CVA enquiry, I'd just be interested to see if there was any insolvency process affecting that particular corporate entity." (Respondent Beech)

Company voluntary liquidations (CVLs):

IP - "In a CVL where you have to distribute to creditors there are 6 notices that go in the Gazette. The initial notice is the pre-appointment convening the section 98 meeting. There are two notices that get filed straight away, within 5 business days, they are the resolutions that have

been passed upon the appointment of the liquidator, so that's 3. Then you ... [publish a] notice to prove in the Gazette, I think it's 21 days, but I tend to give creditors about 6 weeks because I work for the creditors. So you issue notice to prove in the Gazette ... to all creditors as well, that's 45, then you have a final meeting gazetted. So there are 5 meetings ... On the bankruptcy you would do the same. You would issue notice to prove which goes into the Gazette, it gives the creditors time to have a look. **What is really important about the Gazette and why it is so crucial to liquidators is once that Gazette notice goes in, banks look at that notice and freeze the bank accounts** [our emphasis]. So if you have director going willy nilly with a credit card, that account is frozen from the moment that the bank can see that Gazette notice has been filed. And the other good thing is if there is a credit balance at the bank which belongs to the creditors, the bank have checked The London Gazette so they will have seen there is a section 98 meeting to be held, they freeze the bank account and any credit balance comes into liquidation to the benefit of the creditors."

"That can't be underestimated, because, for example, in a liquidation I was appointed to recently, there was a £6,000 credit balance which could have disappeared and would have incurred costs trying to get it back from the directors. But because the bank looked at The London Gazette they froze the bank account." (Respondent Oak)

In response to, "So in your experience the banks are quite proactive in paying attention to the Gazette's content ?", the IP added:

[Deleted] bank are, but they are still owned by their shareholders, so that might have something to do with it. Once a bank has had notice of a section 98 meeting, they can't apply set off, so if you've got a situation where you've got a credit balance

on one account and a ... balance on another account, technically I believe they are not supposed to offset it. So if they've frozen the bank account on a certain date, having had notice of a section 98 meeting, so you are able to get the money back in and there isn't a preference in favour of the bank, so it is an important facility for us. (Respondent Oak)

And finally, **administrative receiverships**:

Solicitor - "... it would just be me making a general enquiry and whatever comes back. I wouldn't target it via the process, because the chances are I wouldn't know that this entity was in a process at all. If I did know it was in a process, I would probably look on Companies House. But it would just be a general enquiry - particularly section 98 meetings. So they're not in liquidation yet, but we've got a suspicion that they're going that way, so put it into the website and you might get the information out before the meeting." (Respondent Beech)

Regarding errors in advertisement submissions to the Gazettes, the advertising agent interviewee reported:

"I've noticed that we are getting probably anywhere between 30 - 50% of notices that have either something missing or something that needs to be checked, or something that is just wrong in there, so that we go back to the client. There may be a few errors where we can offer advice as to whether they really do need to advertise something - especially as you know with the change in the law in 2009 and 2010, it has all been very confusing, as there are three different advertising requirements depending on whether the case has commenced in the last five years." (Respondent Palm)

Frequency of accessing insolvency data via the Gazettes

Overall, the most common frequency of accessing the Gazettes is between 1 to 4 times a month (30% of respondents, **Figure 10**).

Fig 11 - Frequency Of Accessing Insolvency Data (Q9)

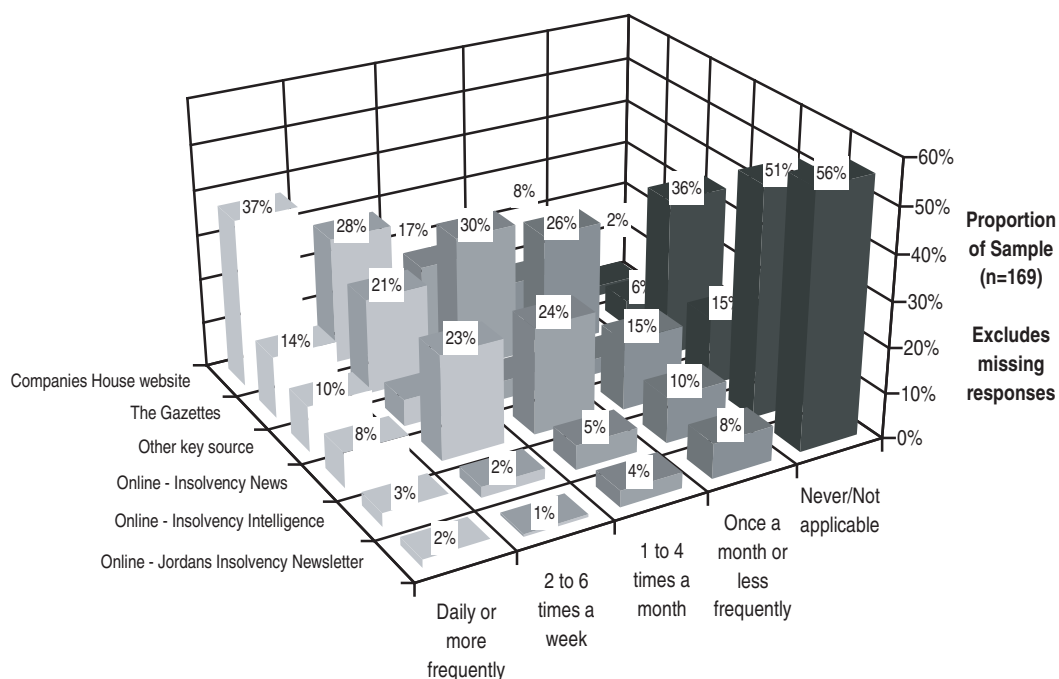


Fig 12 - Frequency Of Accessing Insolvency Data Via Companies House Website (Q9), By Primary Role (Q1)

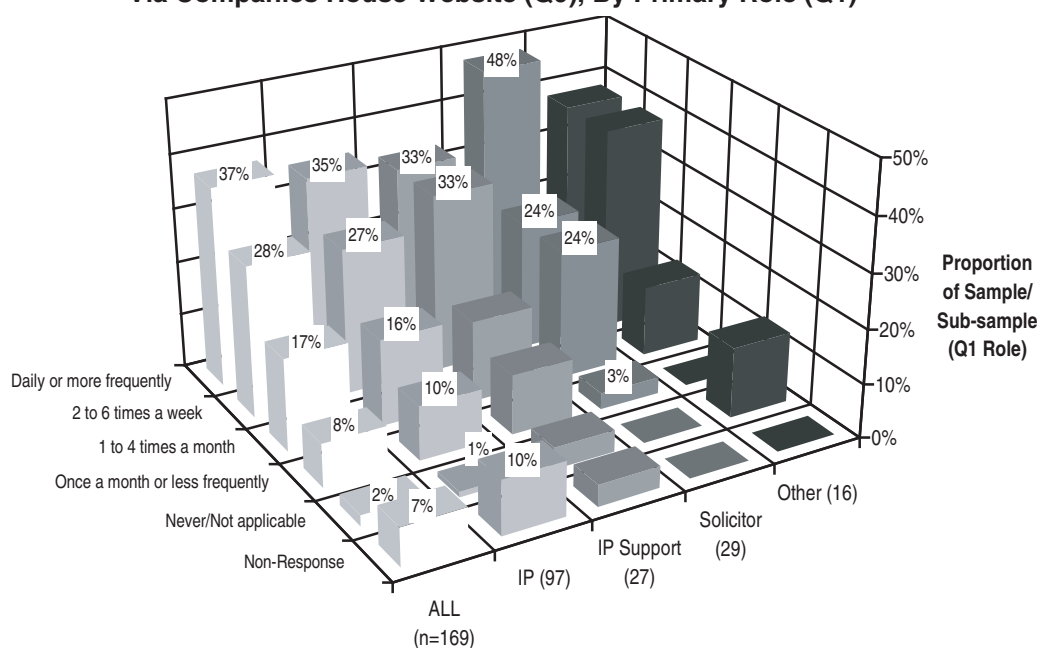
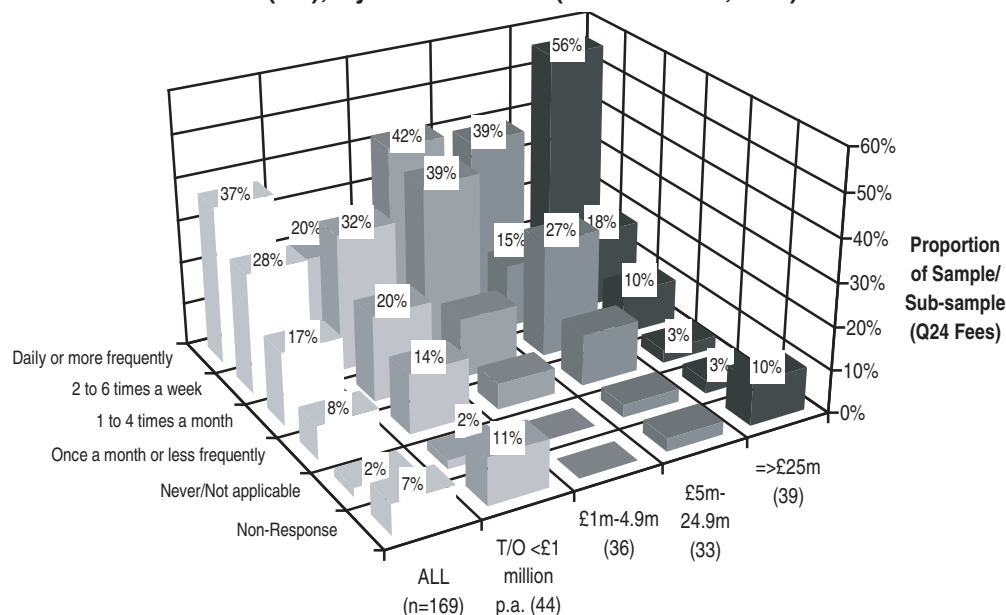


Fig 13 - Frequency Of Accessing Insolvency Data Via Companies House Website (Q9), By Practice Fees (All Branches, Q24)



For IP support staff, their peak demand is more frequent, between 2 to 6 times a week (for 30%), whereas solicitors are less frequent users, with 38% using the Gazettes once a month or less often.

Frequency of accessing insolvency data generally

Overall, the Companies House web site is the most widely-accessed source (37% of respondents, accessing daily or more frequently, **Figure 11**), followed by the Gazettes (30%, 1 to 4 times a month), and the Insolvency News online service (24%, 1 to 4 times a month).

Other sources cited by respondents included:

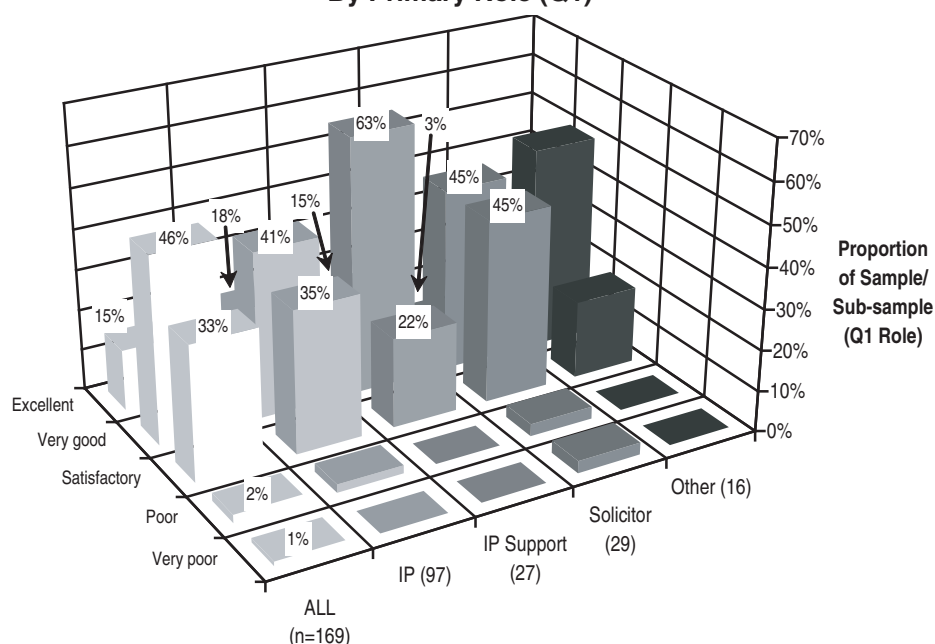
- AIB's Register of Insolvencies
- BIS website
- Centrax Index Phone Line at Companies Court
- Client updates e.g., on sectors
- Commercial analysis service
- Respective company's own sources
- Corpfm
- Creditsafe

- Dear IP letters
- Eiir [Electronic Individual Insolvency Register] / Individual Insolvency Register (Insolvency Service online)
- Experian
- Geoff Swire
- ICC [assumed International Chamber of Commerce]
- ILA
- Insolvency 'Linkedin' group
- Insolvency Service's website
- Internet general searches for news articles, etc. e.g., Google
- PI online
- R3
- Red Flag Alert
- RSM Tenon Tracker
- solicitor's circulars
- Stubbs Gazette
- Technical bulletins
- Various databases including public registers i.e. electoral roll and HMLR [H.M. Land Registry]

Frequency of accessing insolvency data via Companies House

In comparison with the Gazettes usage, the

**Fig 14 - Quality Rating Of Insolvency Data In The Gazettes (Q11)
By Primary Role (Q1)**



most frequent users of the Companies House insolvency data are: a) Solicitors (48% visiting the web site once a day or more often, **Figure 12**), and, b) the larger practices (similarly, 56% of respondents working for insolvency or legal practices with an annual fee income of £25 million or above, **Figure 13**).

Regarding CVLs and MVLs, an IP interviewee said:

"[I am] More likely to go to Companies House, because although we have a statutory duty to advertise in the Gazette, we also have a statutory duty to notify the register within 5 business days. It's easier to go to the Registrar of Companies website because most practitioners ... will have an account with Companies House, so you can access it quickly. If you're asking about a creditor, and they say they haven't had notification that an appointment has been made, then you can go in and print everything off straight away. It's a very easy service to use. (Respondent Oak)

And another IP interviewee noted:

Personally I don't [use Companies House] but the firm does. We have direct links. If we have information on a new client for the potential of engagement, the first thing they do will be to use Companies House to pull off all the annual returns, accounts, if it's a group company, the whole of the group's structure, and that's all a part of our pre-appointment process. [We would be] Checking that we haven't got conflicts of interest and independence issues, so [we would be] looking at each of the individuals and checking whether or not they are involved in other companies that potentially might be our clients and so on ... It would be good to be able to PDF a version because I think they were talking about doing away with paper versions, but at least being able to print off a dated copy as good evidence. So in other words, when it prints off, it's clear when it was published and that it is an accurate copy of what was published, and a [secure] PDF version

Fig 15 - Could The Presentation & Content Of Insolvency Data In The Gazettes Be Improved ? (Q12), By Primary Role (Q1)

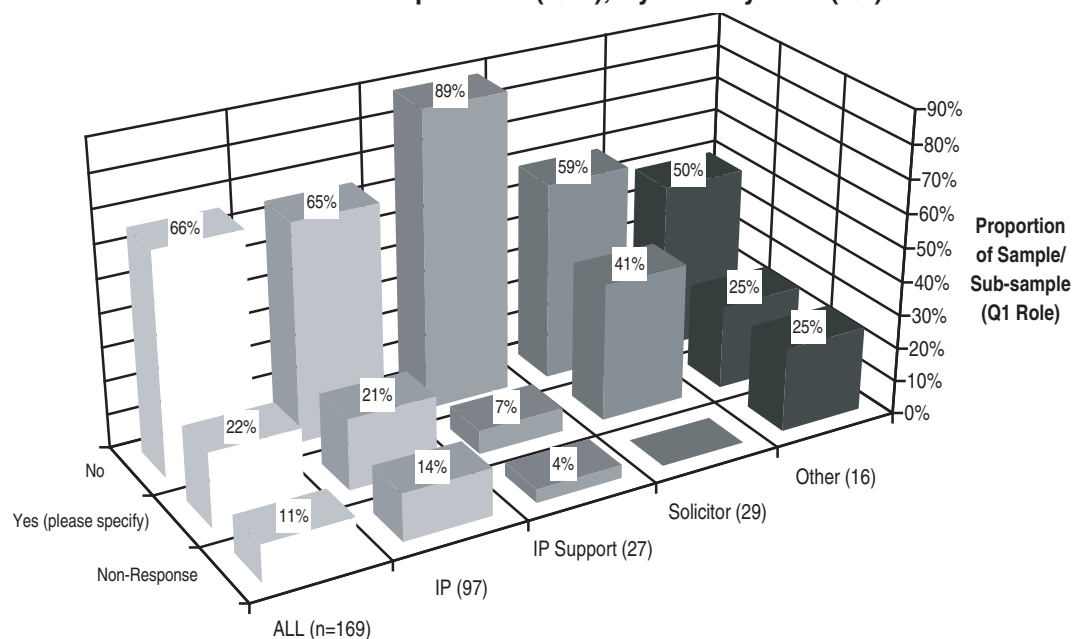
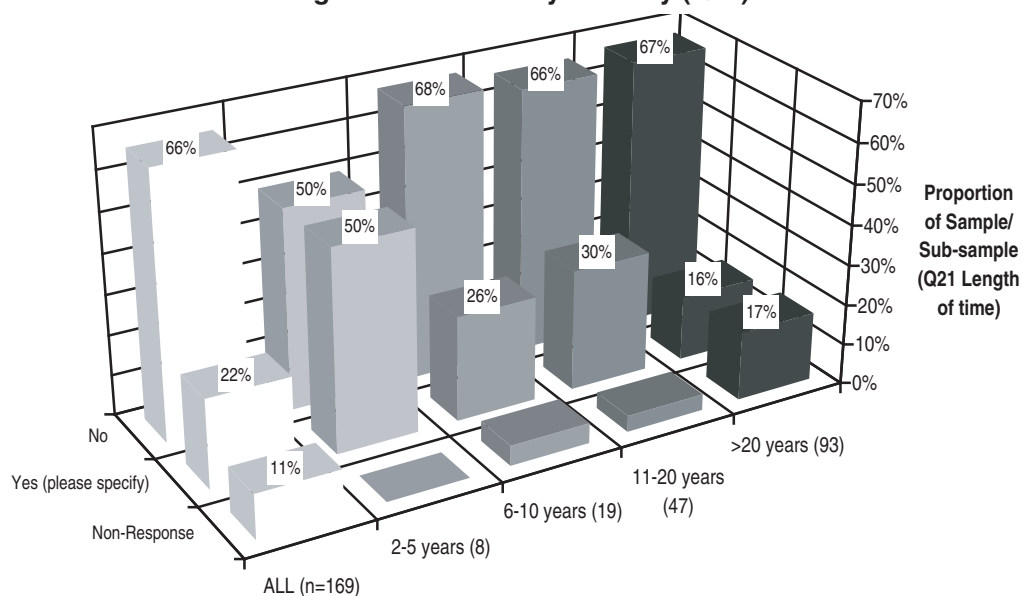


Fig 16 - Could The Presentation & Content Of Insolvency Data In The Gazettes Be Improved ? (Q12), By Respondents' Length of Time Working In The Insolvency Industry (Q21)



so that it can't be copied or amended in any way, and you can give it to the regulators as good proof that the meeting or appointment was published on the correct date and in sufficient time within the time lines required by the rules." (Respondent Pine)

Quality of insolvency data published in the Gazettes

Well over half of the respondents consider that the data quality is either 'excellent' or 'very good' (61%, **Figure 14**).

Support staff to IPs are the most favourably disposed group, where over three-quarters (78%) indicate that the data quality is either 'excellent' or 'very good'

Suggested improvements to the presentation and content of Gazette insolvency data

Almost a quarter of respondents offered suggestions for improvements (22%, **Figures 15 and 16**).

Solicitors are the most critical group (41% indicating that improvements could be made), as were those respondents with the least experience in the insolvency industry (50% of those with 2-5 years' experience, but this sub-group is very small, **Figure 16**). The most satisfied group, in terms of experience, comprised those respondents with over 20 years' experience, with only 16% feeling that the Gazettes could be improved (**Figure 16**). However, this group also has a sizeable proportion of non-responses to the question (17%).

In summary, the suggestions included: refinements to the online search process, the availability of output in .CSV or Microsoft Excel formats, and, compatibility with proprietary IP case management software. The full complement of suggestions is listed below:

"A better user interface and search engine, it sometimes takes too long to locate the advertisement required"

"Allow it to be exportable in .CSV or Excel format. Happy to discuss field content of value to us."

"Better clarity of information"

"Better organised into appropriate process"

"Categorised in to trade/activity. Downloadable."

"Complete petitioning creditor and their solicitors details to be entered in every bankruptcy creditor's petition"

"Easier to locate information looking for"

"Easier access/better filters"

"Easier on-line searching/results"

"Further information would be useful, such as the appointing party in administrations, but it is acknowledged that the content of adverts placed is governed by legislation"

"Hard to search through the results"

"Have an index"

"Historic data to be available for longer in the online version"

"Improve presentation of results shown"

"Improve search function. Website is not really user friendly."

"Inconsistency of filing under the correct headings in the online version"

"It is a little old fashioned and hard to follow"

"It would be useful to have more sophisticated search options."

"More easily searchable"

"More online friendly. No need for the paper copy. Easier to advertise and to search."

"Not user-friendly presentation. Old fashioned"

"Please provide online standard adverts for all insolvency types as well as a general blank notice that can be tailored - alternatively, if it could be merged into our IPS software package with some form of statutory notice gateway that would simply be marvellous"

"Search facilities could be improved, sometimes takes a few moments to find the data I am looking for"

"Search facility can be cumbersome"

"Search facility could do with improving particularly with refining searches and display of search results"

"Search facility is not particularly effective"

"Search feature could be improved"

"Searching can be difficult - more refined search options would help to narrow range of results"

"Some of the search functions are 'clunky' - too many error messages!"

"Standard wording for adverts"

"Stop producing in such an old fashioned way/script"

"The online search could be made a little easier."

"The online version would be better if it was searchable by name."

"The publication comprises of statutory advertisements, its presentation reflects that"

"Timing and ability to search"

"We just use it to ensure that our statutory responsibilities are met. Not for any other reason"

"When doing a search it's not clear to me whether the result will be specific to the case or just one of those long lists"

Regarding possible improvements, the solicitor interviewee responded:

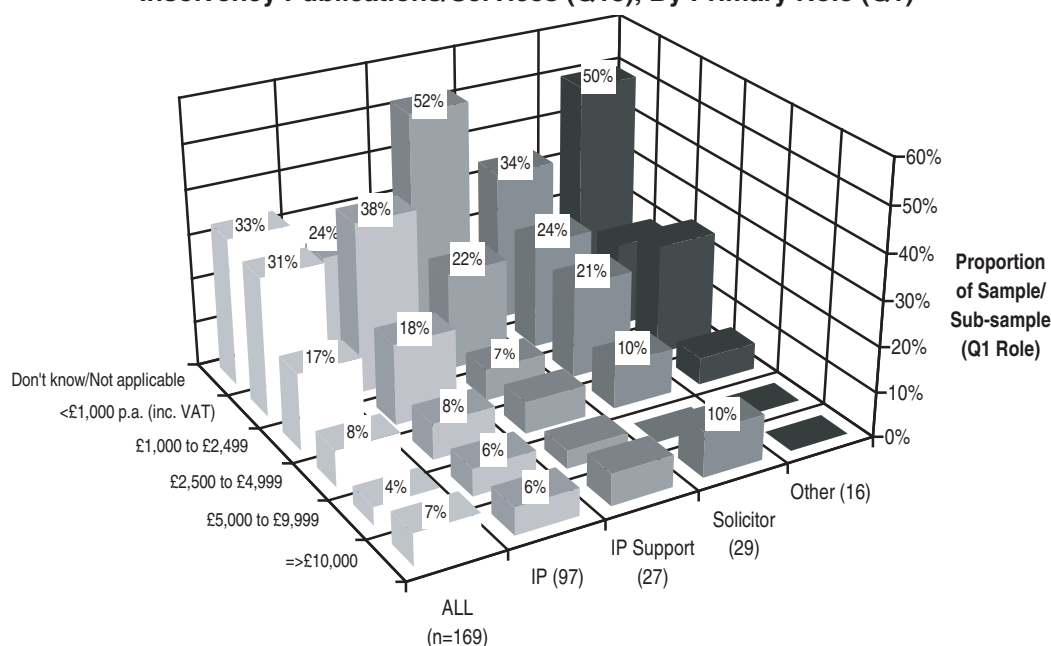
"I did used to find it a bit awkward when I'm looking for a particular company, having to scroll down to insolvency then to company insolvency and then you have to squeeze the name of the company into not very big text box - it was a bit tricky to find things. I think it has improved in the last year or two, but I'm reasonably confident I can get what I want out of it. Or to put it another way, if I don't find something, then I'm reasonably confident that it wasn't in there in the first place. It would be nice if it had a general search form where it says 'what is the name of the company', or the individual or the thing that you're interested in, and you just filled in that. You might have other search criteria, such as a date range or whether it [is] insolvency or planning or all the other stuff that I know the Gazette covers - you could just hit that and go in that way; and it's my ignorance if you can already do that, and I just don't because I'm blissfully unaware of it, but in terms of functionality just having a general search form that you can put information in would make my life easier I think. Apart from that it does the job, and I use it and generally find what I want, and if I don't find it, then I'm pretty confident that it's not there in the first place." (Respondent Beech)

Awareness of the Gazettes amongst the wider business population

During one of the interviews, which touched on possible service improvements, an IP noted:

"As a practitioner and having used it for years, I find it quite user friendly because I know how to read it and look at it. This whole idea of advertising for claims in the Gazette, a local painter and decorator looking for a creditor isn't going to look in the Gazette for notice that he's got to prove his debt to me, which is why we do write to them as well, but as I said before, this idea of MVLs ... [possibly: the Gazette notice serves as a record, a]

Fig 17 - Annual Budget For Subscriptions To Insolvency Publications/Services (Q13), By Primary Role (Q1)



*piece of paper just in case a creditor comes back after I've distributed the whole estate - I don't know **do normal lay people read the Gazette? I don't think they do to be honest with you. I think it's very much used by professionals** [our emphasis]."*
(Respondent Oak)

Respondent expenditure on insolvency publications/services

Nearly a third of respondents indicated that their local office expenditure on insolvency publications/services was less than £1,000 annually (31% of respondents, **Figures 17 and 18**).

Regarding either 'Don't know' cases or the inapplicability of practice budgets for subscriptions to insolvency publications or services, support staff to IPs represented the largest sub-group (52%, **Figure 17**).

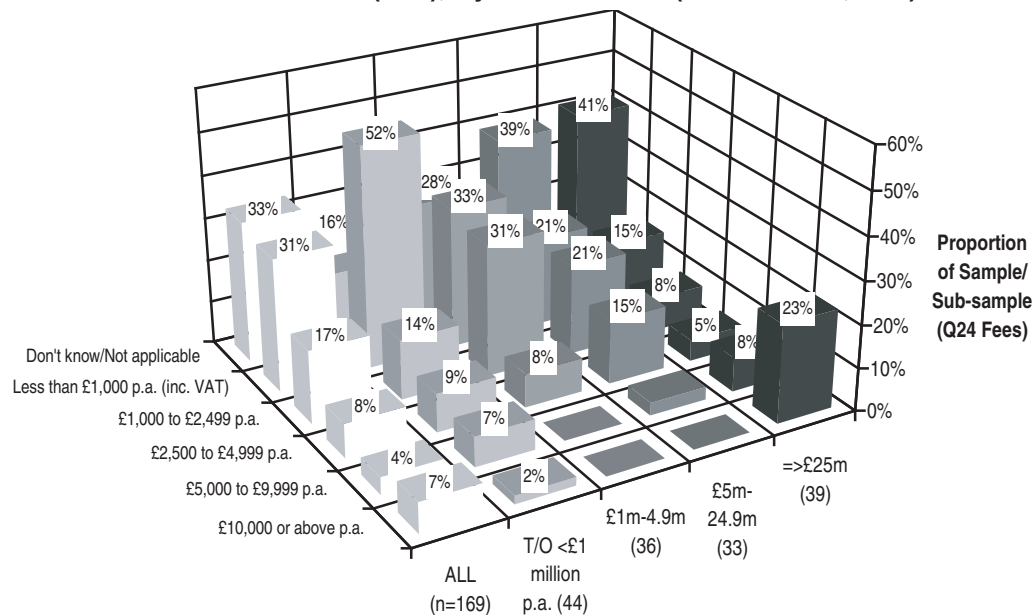
Perhaps unsurprisingly, practices with the largest fee income reported having the largest budget, with 23% of those with an annual income of £25 million or above reporting an

annual budget of £10,000 or above (**Figure 18**).

Nonetheless, a notion that every IP or solicitor operates with a clear-cut budget for expenditure on insolvency publications and/or services, appears not to be the case, as our solicitor interviewee noted:

"The Companies House stuff we have a general subscription, I think some of it is free anyway because it is a government website. But downloading bits and pieces, I think it's about £1 per download, so I couldn't really hazard a guess at what we spend on Companies House and the other stuff, i.e., the insolvency intelligence stuff through our Westlaw subscription, and I have not the faintest idea what we pay for that. So that's very hard to quantify. In terms of ad hoc spending, it is probably just The London Gazette, and the client pays for that as part of the cost of their matter of disbursement. I can't really give you a cost for other things, it's either wrapped up in global subscriptions

Fig 18 - Annual Budget For Subscriptions To Insolvency Publications/Services (Q13), By Practice Fees (All Branches, Q24)



that cover the entire practice, or it's so very ad hoc that I wouldn't have a feel for what the spend is I'm afraid."
(Respondent Beech)

Use of third party agencies to place advertisements in the Gazettes

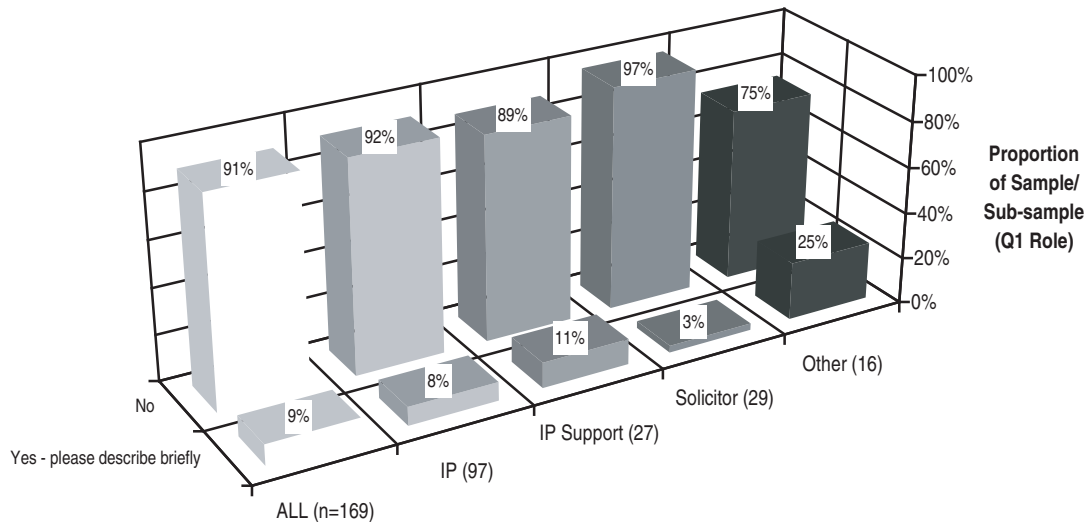
Whilst discussing individual voluntary arrangements (IVA), one of the IP interviewees said:

"No, that's not gazetted but I don't approach the Gazette direct, I approach a company called [deleted]. When I get notice that I'm going to put a company into CVL, I fill out a ... notice which I then e-mail to [agency deleted], saying please insert into the next available Gazette. They insert it into the Gazette and they e-mail me back with a copy of a confirmation of my order and a confirmation that it's gone to The London Gazette. When it's been advertised, it's [agency deleted] that actually give me back the advert, so I don't approach the Gazette direct. It's much easier to use a third party,

it's very quick and you know it's done correctly. They are the ones who are expert at doing it. So any queries, say, for example, I've missed out a date or ... the company number doesn't tally with the company name or something, they would come back to me on that. [But] Human error does happen ...

It's a very small cost and what we do is a category one disbursement, which is met from the estate. I don't exactly know what the cost is, but they also give you a free listing in [web source deleted]. Sorry, I know exactly what the cost in total is, [but] I don't know what their share of it is. The listing can show you if you're looking for a particular practitioner who you think may have been appointed over some case. You can go to that website and it will show you whether a notice has been filed. ... Now in an MVL, creditors have to be paid in full, together with statutory interest if they haven't been paid before the MVL starts. The liquidator files a notice in the Gazette to prove that they advertised, no

Fig 19 - Does The Practice Use The Gazette For Business Development Purposes ? (Q14), By Primary Role (Q1)



creditors came forward and that's what stops IPs from getting sued by missing creditors. We have advertised for claims and no one has come forward. That's a really important point about the Gazette which is very useful on MVLS. (Respondent Oak)

Use of the Gazettes for practice development

Only 9% of the respondents report using the Gazettes for business development purposes (Figure 19).

However, larger practices are twice as likely as the average to use the Gazettes for this purpose (18% of respondents with an annual fee income of £25 million or above, Figure 20).

Examples offered by respondents comprised:

"Finding out which practitioners are working on which cases"

"Identifying which insolvency practitioners are being appointed on which jobs, what proportion of market

share they hold as individuals and companies. We split the data into regions and monitor which jobs we are instructed on by the insolvency practitioners"

"Identifying bankruptcy cases"

"Identifying winding-up petitions"

"Insolvencies within our locality/type of business/identify their professional advisors"

"Marketing team use it for business intelligence reasons"

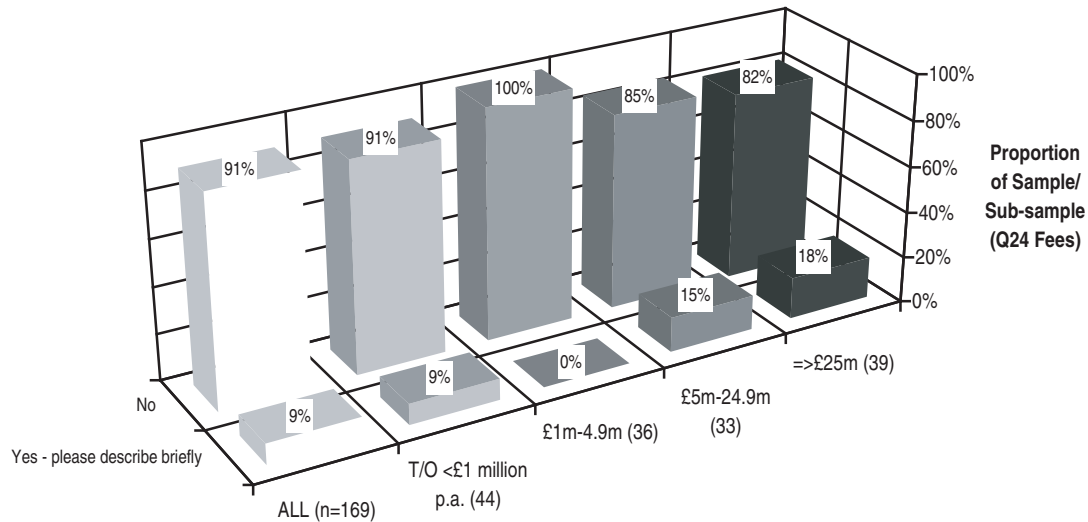
"Monitoring insolvency activity in certain regions and where applicable establishing whether the accountants/lawyers are known to the firm"

"Monitoring wins of other firms"

"Prospecting for bankruptcy cases"

"Review potential clients to see

Fig 20 - Does The Practice Use The Gazette For Business Development Purposes ? (Q14), By Practice Fees (All Branches, Q24)



whether any petition has already been presented"

"To analyse number of MVLs, competitor activity, etc."

"To identify appointing parties (e.g. administrations) and ascertain whether our relationship with them needs further development"

"Understand who is winning appointments in our locality. Knowledge who is busy in general"

"Use to contact accounting firms whose clients face insolvency"

Use of the Gazettes for competitive tracking

A small proportion of the respondents report using the Gazettes for competitive tracking (14%, **Figure 21**).

Larger practices are much more likely than the overall sample to use the Gazettes for this purpose (33% of respondents with an annual

fee income of £25 million or more, **Figure 22**). Interestingly, none of the solicitor respondents reported using the Gazettes for competitive tracking.

Examples offered by respondents comprised:

"Activity in local market place"

"Analysis of appointments/appointers"

"Awareness as to what other firms in Belfast are obtaining appointments"

"Collating numbers of appointments of other firms"

"Competitor tracking of recent appointments"

"Following up on companies that were being monitored for clients"

"Identify work winners"

"Keeping tabs on competitors appointments"

Fig 21 - Does The Practice Use The Gazette For Competitive Tracking Purposes ? (Q16), By Primary Role (Q1)

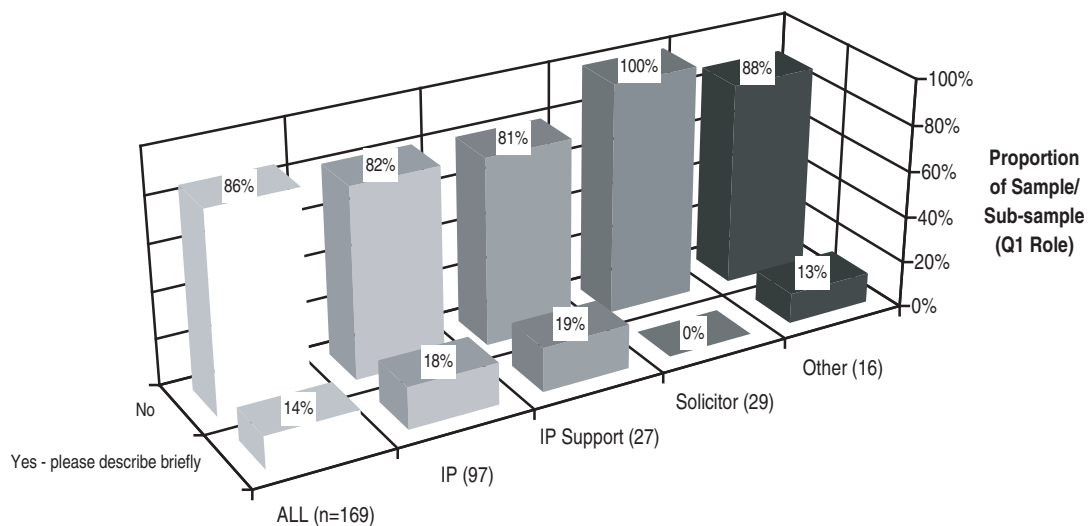
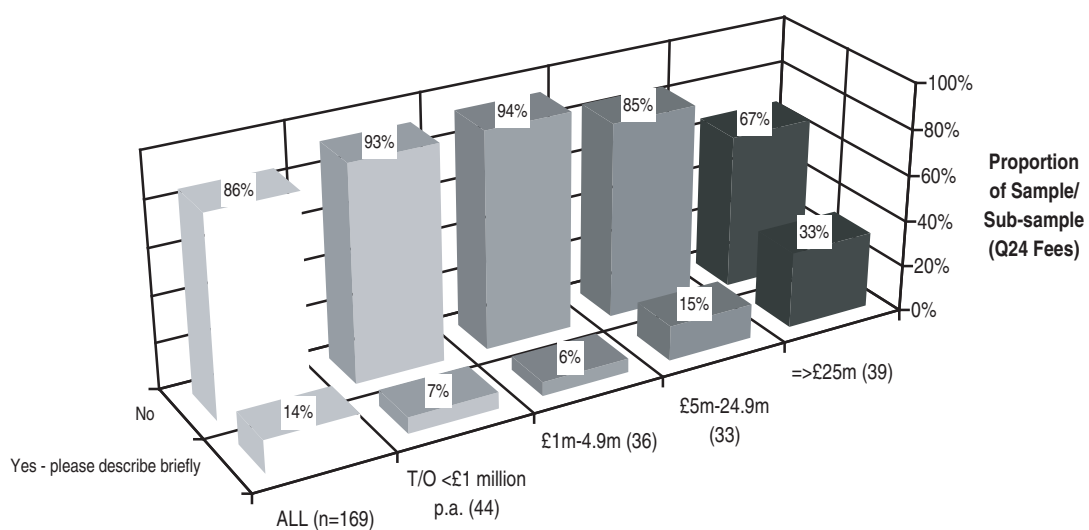


Fig 22 - Does The Practice Use The Gazette For Competitive Tracking Purposes ? (Q16), By Practice Fees (All Branches, Q24)



"Local work winners"

"Monitoring appointments"

"Monitoring Trust Deed numbers & Liquidation appointments"

"Monitoring wins of other firms"

"Number of cases where competitors are appointed"

"Numbers of appointments by practitioner"

"Review of MVL appointments"

"See whom is appointing and who is getting work"

"To check on block transfers of appointments. To monitor competitor activity"

"To identify firms being appointed and to the business sectors"

"To identify who is obtaining appointments"

"To see how many other local IP's have notices"

"To track number of MVL appointments, analyse where clients have used other firms to do their MVLs"

"Tracking appointments"

"Tracking bankruptcy cases"

"Tracks the number of insolvency jobs other local IPs receive"

But judging by both sets of foregoing comments, many respondents may not draw any distinction between the concept of business development and competitive tracking.

It is possible, for example, that the tracking of bankruptcies could arise from trying to get a general feel for the market in terms of procedure use, just as much as it may be about seeing what competitors are up too, i.e., do practices need to redeploy internal resources to a personal insolvency department (away

from corporate recovery services) because there seems to be a growth in the local market whereby people with insolvency difficulties will need more help on the personal side ?

Suggestions for other information/notices which could usefully be included in the Gazettes to help practices

14% of the respondents offered a range of suggestions, and the most commonly cited related to The Law of Property Act Receivership.

Additional suggestions for other information/notices included:

"A searchable database of CCJs"
[County Court Judgments]

"A searchable list of registered deaths as some of our bankruptcy estates realise pension policies"

"Better information on the nature of the insolvent company's business"
[also noting that Articles of Association are often general, out of date, or misleading]

"Consistency with trading addresses on all adverts"

"CVA/IVA if legislation were changed"

"Fixed charge appointments"

"Geographic analysis of insolvency appointments and analysis by sector"

"LPA Receiverships appointment detail would be useful in so far as it relates to corporate borrowers"

"Proceeds of Crime Act receivership"

Service standards of the Gazettes

Almost two-thirds of the respondents answering the question about service standards consider that they are either 'excellent' or 'very good' (63%, **Figure 23**).

Fig 23 - How Would You Rate The Service Standards Of The Gazette ? (Q19), By Primary Role (Q1)

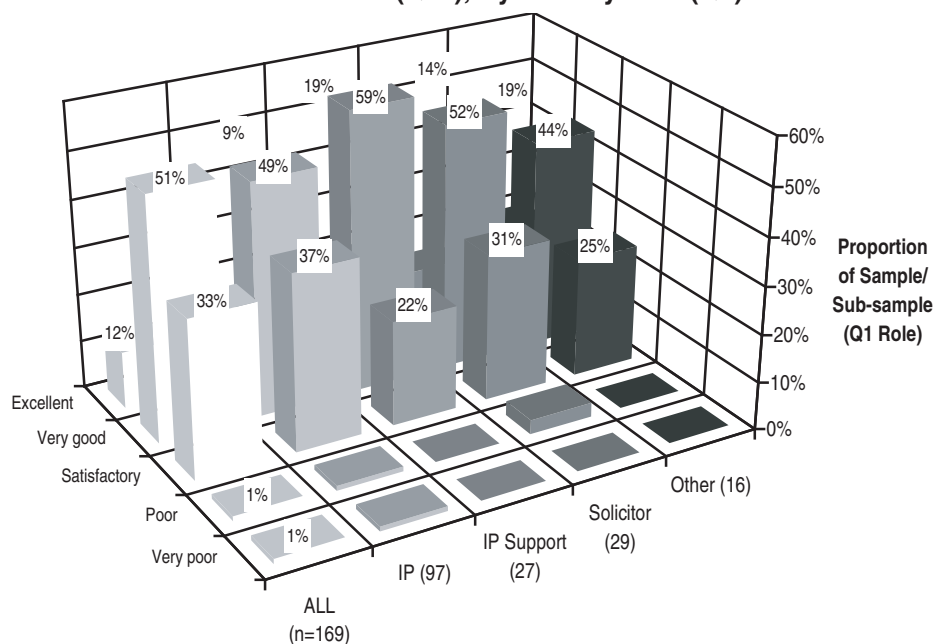
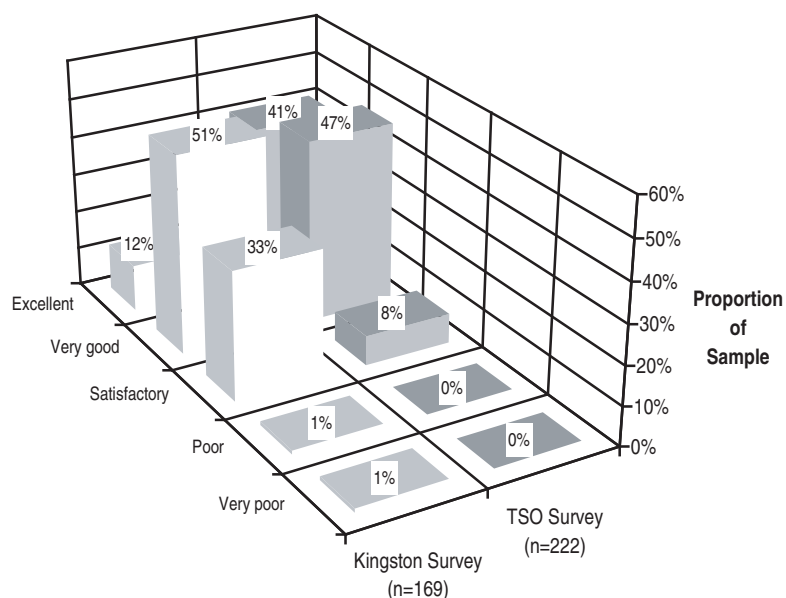


Fig 24 - Comparison of Kingston Law School & TSO Surveys: How Would You Rate The Service Standards Of The Gazette ? (Q19)



Service standards of the Gazettes - differences in ratings between the Kingston and TSO samples

There is a marked difference between the Kingston and TSO online surveys, whereby 41% of the TSO respondents rate the Gazette service standards as 'excellent', compared with only 12% of the Kingston respondents (**Figure 24**)

The variation may be influenced by the differences in sample compositions, with the Kingston sample predominantly comprised of IPs, in contrast to the dominance of IP support staff in the TSO sample (**Figures 1 and 2**).

But perhaps more influential is the difference in **target audience**: whereby affiliation with the Association of Business Recovery Professionals (R3) predominates amongst the Kingston target audience, compared with what might be largely advertising contacts in the TSO counterpart.

Also, it is not clear whether or not the inducement to participate in the TSO online survey (an opportunity to win an iPad) - presumably to help improve the response rate - materially biased the TSO responses.

RESPONDENT PROFILE

Membership of Recognized Professional Bodies (RPBs)

Overall, the Insolvency Practitioners Association is the most commonly cited body by respondents (IPA, 43%, **Figure 25**), followed by The Institute of Chartered Accountants in England & Wales (ICAEW, 26%), and, The Law Society (18%).

12% of the IP respondents (11 out of 89) reported that they are members of both ICAEW and IPA.

As might be expected, the vast majority of the solicitors are members of The Law Society (90%).

When the various professional memberships are compared, there is rising age profile for ICAEW membership **within the sample**. That is, respondents who are affiliated with the ICAEW are more likely to be members if they are older rather than younger (46% of those aged 56-65, compared with 11% aged 26-35,

Figure 26).

But a falling trend is evident amongst Law Society members, whereby respondents who are affiliated with The Law Society are more likely to be members if they are younger rather than older (30% of those aged 26-35, compared with 8% of those aged 56-65).

Size of practice

Approximately a third of respondents (35%) work in a 'single-branch' practice based in the UK (**Figure 27**). However, a similar proportion (33%) work for practices having multiple offices located in the UK only, and 30% work for multiple-office practices in the UK and/or internationally.

The single largest group of IPs work in 'single-branch' UK practices (39%), whereas the largest group of solicitor respondents work in practices with multiple branches in the UK (52%).

Local branch staff size - 60% of the local branches in which respondents work have fewer than 25 staff (**Figure 28**).

The largest group of IPs work in practices having 10-24 staff (29%), whereas the largest group of solicitor respondents work in practices with 100 or more staff (38%).

Practice fee income

Nearly a half of respondents (47%) report working for practices with an annual income of less than £5 million (for all offices, **Figure 29**).

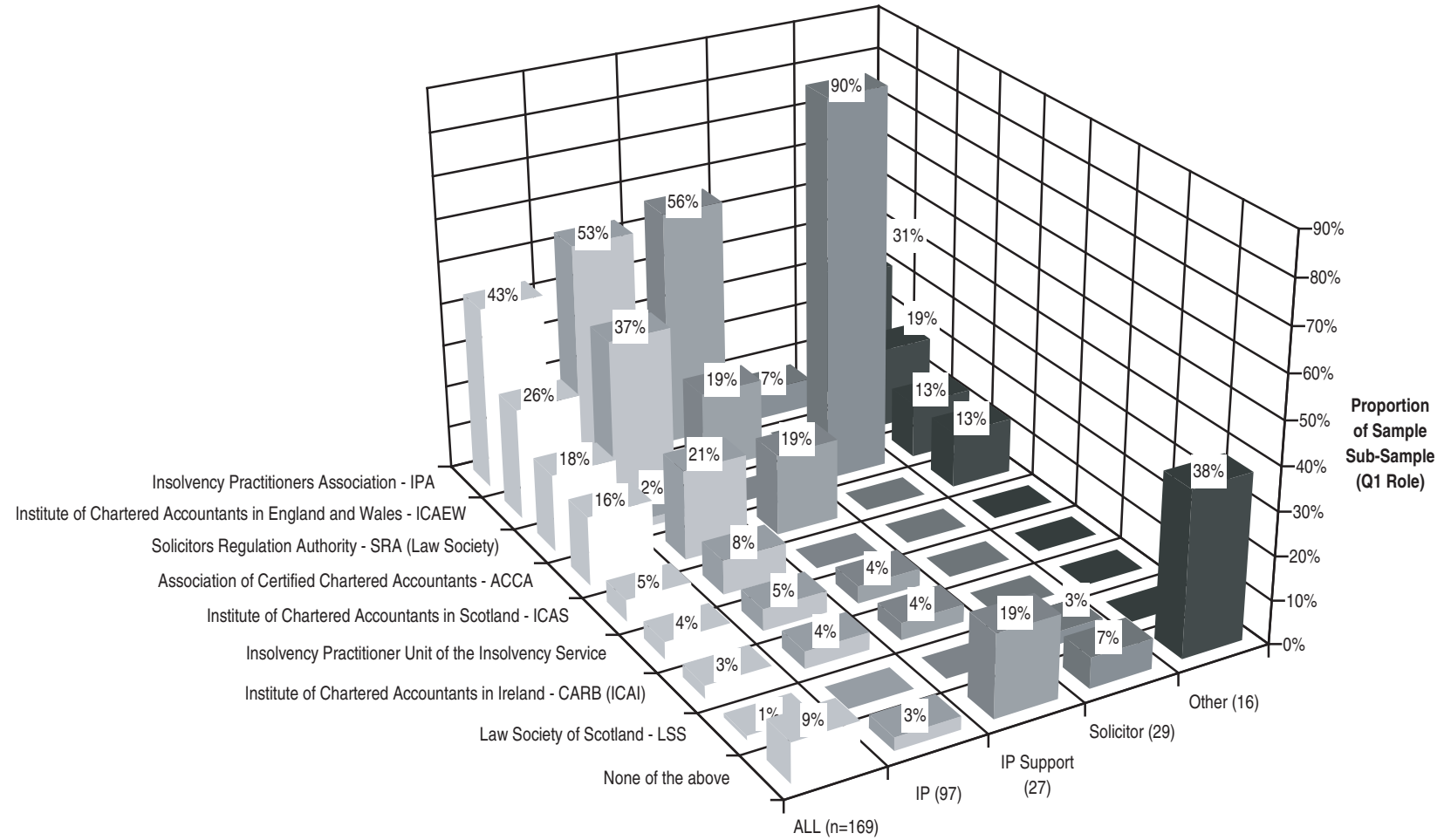
As found with the staff size analyses, the largest group of IPs work in the smaller practices (34% working in practices with an annual fee income of less than £1 million, **Figure 29**). And the largest group of solicitor respondents work in practices with an annual fee income of between £5 million and £24.9 million (38%).

Age of respondents

Just over a half of respondents (51%) were 46 years of age or older (**Figure 30**).

IP respondents in the sample were typically a decade older than the solicitors: the largest

Fig 25 - Membership Of Recognised Professional Body (Q20), By Primary Role (Q1)



**Fig 26 - Membership Of Recognised Professional Body (Q20)
By Respondent Age (Q25)**

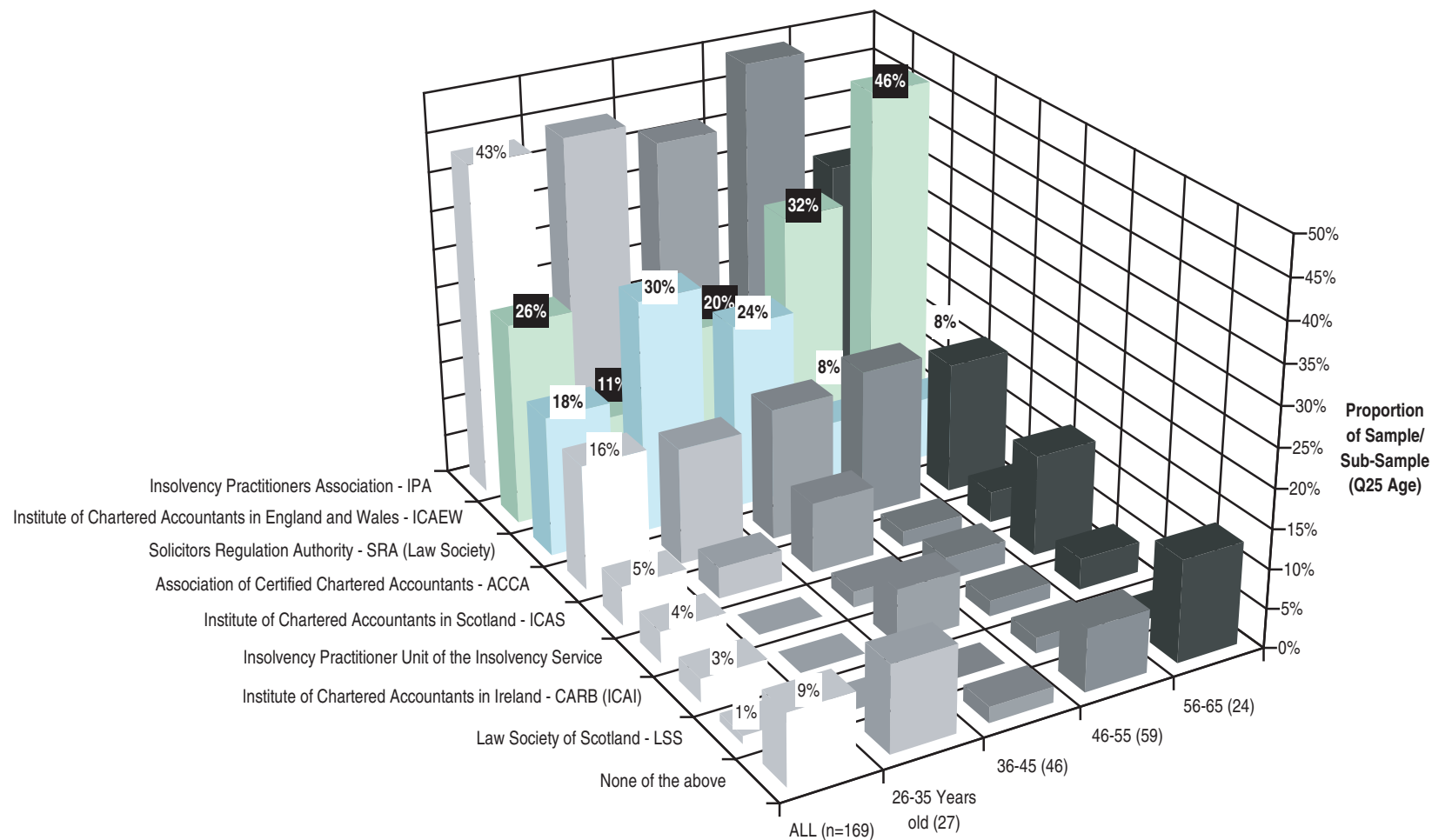


Fig 27 - Size Of Practice (Q22) By Primary Role (Q1)

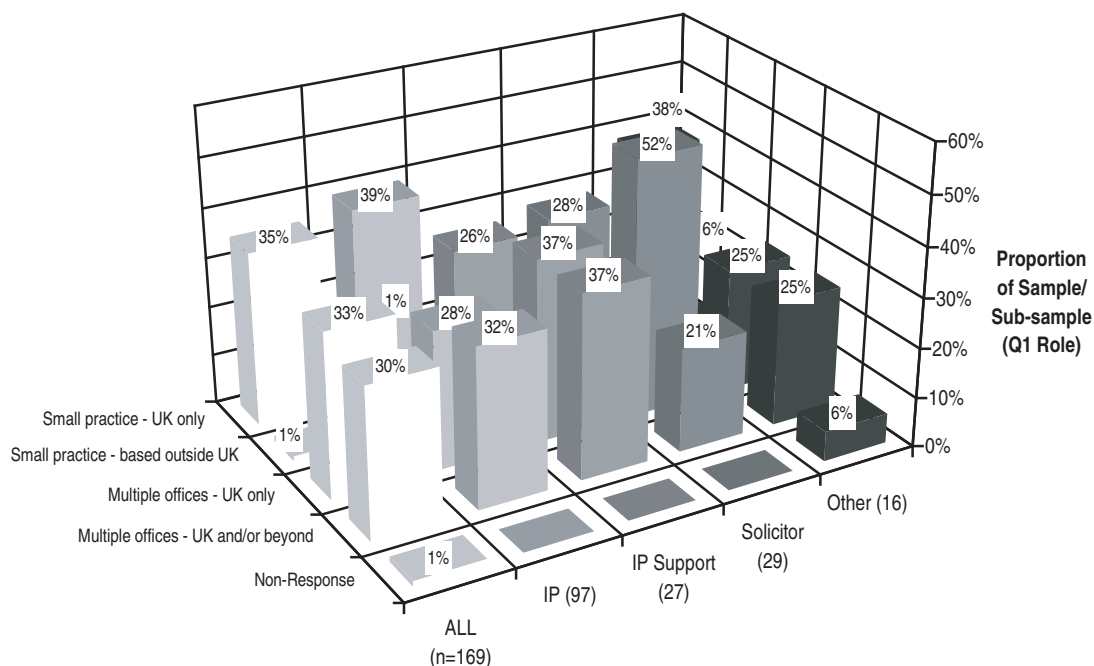
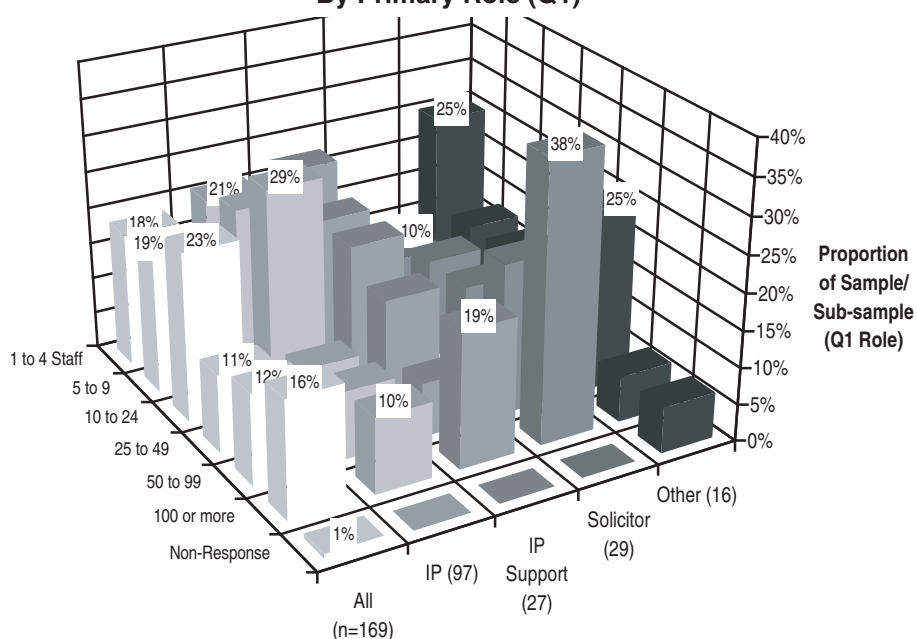


Fig 28 - Staff Size Of Respondent's Branch Practice (Q23) By Primary Role (Q1)



**Fig 29 - Practice Fees For All Branches (Q24)
By Primary Role (Q1)**

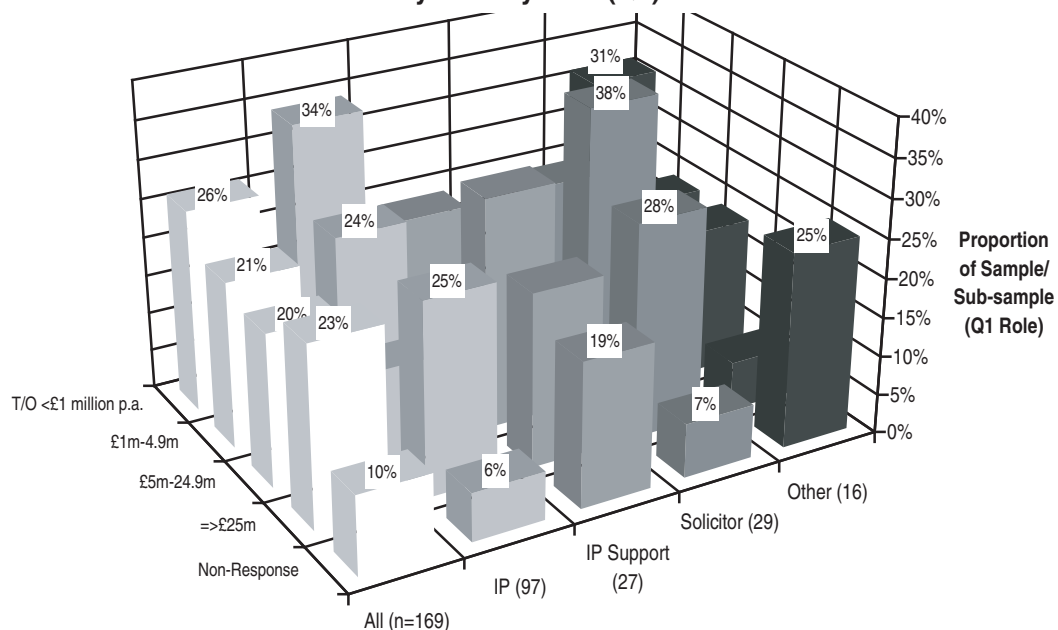


Fig 30 - Respondent Age (Q25), By Primary Role (Q1)

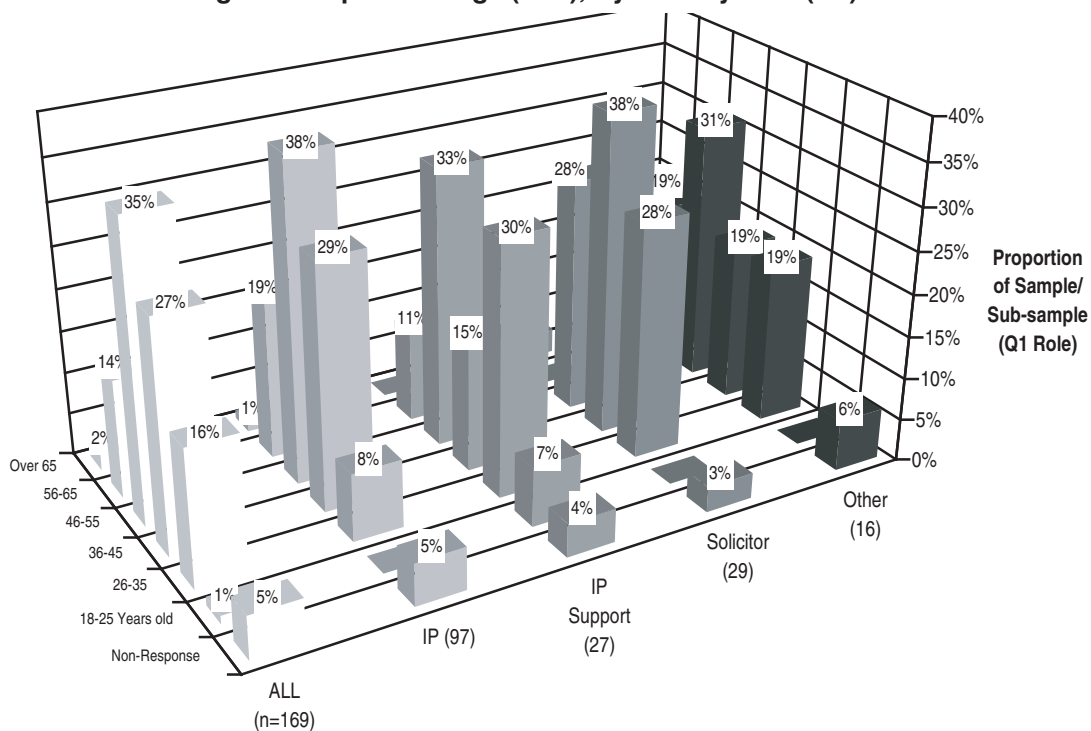
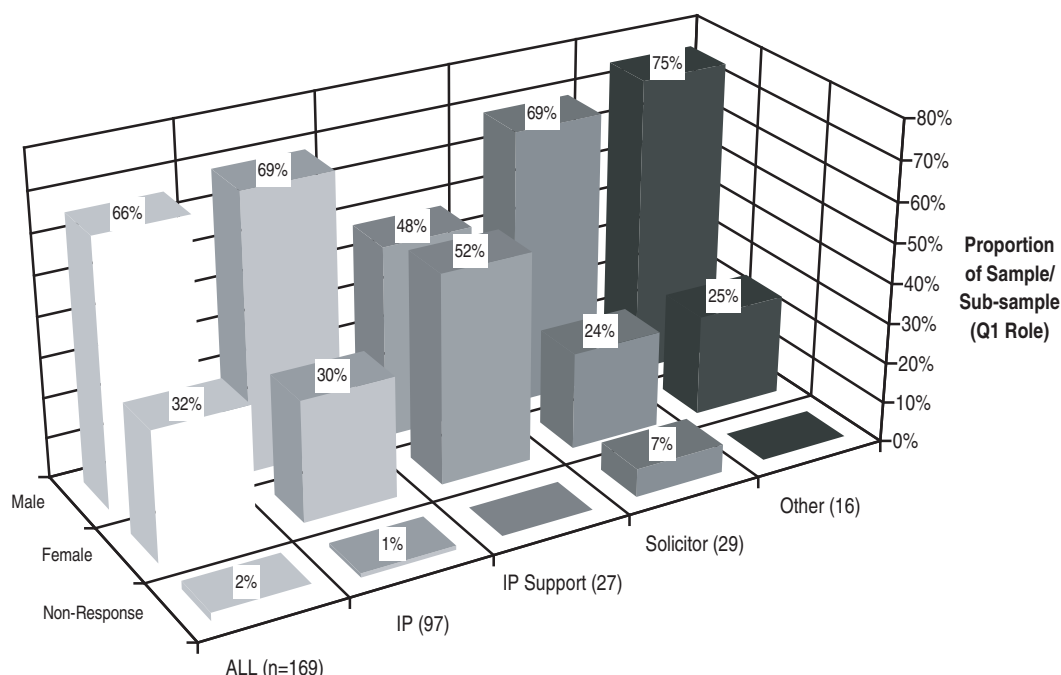


Fig 31 - Respondent Gender (Q26), By Primary Role (Q1)



band of IPs were aged 46-55 (38%), whereas their solicitor counterparts were aged 36-45 (38%).

Gender of respondents

Male respondents outnumbered female respondents by approximately two to one (66% male to 32% female, **Figure 31**).

The most evenly-balanced distribution is evident amongst IP support staff, in marked contrast to the 'Other' group of respondents, where males outnumbered females 3:1.

6. CONCLUSIONS AND RECOMMENDATIONS

The research study set out a number of objectives, which follow in bold, and are accompanied by our corresponding observations:

We also repeat our earlier caveat, in that generalising the survey analyses to a wider population is problematic, as is the case with many other business surveys which also rely on non-random sampling.

We do, however, draw occasional comparison with two other surveys of IPs and IP support staff, which used similar methodologies to gather data (CEBR, 2008, and TSO, 2011).

1. **Whether the speed of publication makes *The London Gazette* useful as an early indicator of insolvency levels (in advance of the official statistics). *The London Gazette* is available immediately whilst the official data can be up to four months behind.**

Potentially, the Gazettes may offer a useful opportunity to improve upon the current insolvency data ¹⁴, but this would require an analysis for each edition which fell within a given time frame. For example, a time series trend spanning a decade might comprise approximately 520 sets of weekly data points. However, the adoption of an automated process, using data held in a standardised format, may make this a relatively simple and straightforward task.

¹⁴ <http://www.insolvencydirect.bis.gov.uk/otherinformation/statistics/201311/index.htm>

2. Whether or not from the point of view of insolvency professionals *The London Gazette* does a “good job”.

Almost two-thirds (63%) of the respondents answering the above question consider the service standards of the Gazettes to be either ‘excellent’ or ‘very good’ (**Figure 23**). A further third (33%), rated the service as ‘satisfactory’. On a related question, enquiring about the quality of insolvency data published by the Gazettes, well over half of the respondents consider that the data quality is either ‘excellent’ or ‘very good’ (61%, **Figure 14**). A further third (33%), rate the data quality as ‘satisfactory’. But the extent to which the publishers can exercise quality control over the source data is debatable.

3. From the point of view of insolvency professionals how *The London Gazette* could improve.

Almost a quarter of respondents offered suggestions for improvements (22%, **Figures 15 and 16**). Solicitors are the most critical group, with 41% indicating that improvements could be made.

The most common concern appears to be a constrained search capability, but the typical feedback was general - the comments offered can be found in ‘Suggested improvements to the presentation and content of Gazette insolvency data’ (pp. 23-24).

For suggestions regarding other information/notices in the Gazettes which could usefully be included to help practices - 14% of the respondents offered a range of suggestions, and the most commonly cited related to The Law of Property Act Receivership.

Additional suggestions for other information/notices included:

- “A searchable database of CCJs” [County Court Judgments]
- “A searchable list of registered deaths as some of our bankruptcy estates realise pension policies”
- “Better information on the nature of the insolvent company’s business” [also noting that Articles of Association

are often general, out of date, or misleading].

- “Consistency with trading addresses on all adverts”
- “CVA/IVA if legislation were changed” (Company Voluntary Arrangements, Individual Voluntary Arrangements)
- “Fixed charge appointments”
- “Geographic analysis of insolvency appointments and analysis by sector”
- “LPA Receiverships appointment detail would be useful in so far as it relates to corporate borrowers”
- “Proceeds of Crime Act receivership”

4. What the profession wants from *The London Gazette*.

This objective overlaps its predecessor and also several successors, and it arguably combines the extent to which current and potential needs are or can be satisfied on a commercial basis.

In addition to the issues covered by the previous objectives, there are: readership/access of regional versions, the preferred format (print vs. online), the information sought, and, the reasons for placing advertisements.

■ **Regular usage of regional editions of the Gazettes** - the London edition recorded the widest readership (90%), followed by the Edinburgh (12%) and Belfast (5%) editions (**Figure 4**).

■ **Print vs online usage** - respondents marginally favour online usage only (45%) over dual paper and online usage (41%) (**Figure 5**). Smaller IP practices tend to favour online only, in contrast to the larger practices, who veer towards dual paper and online usage (**Figure 6**).

■ **Main information sought** - the greatest demand is for winding-up petitions (80%), followed by administration orders (67%) and bankruptcy notifications (64%) (**Figure 7**). Winding-up petitions were of particular interest to solicitors (97%).

Other requirements included CVLs and MVLs.

- **Main reasons for advertising in the Gazettes** - administration orders represented the greatest demand (62%), followed by bankruptcy notifications (56%) and winding-up petitions (56%) (**Figure 8**). Other reasons included CVLs and MVLs.

Regarding respondent expenditure on insolvency publications/services, almost a third of respondents indicate that their local office expenditure is less than £1,000 annually (31% of respondents) (**Figures 17 and 18**).

Alternative sources of insolvency information may complement IP requirements and/or potentially offer opportunities for expansion by the Gazettes.

- **Key sources of insolvency data** - the most widely-accessed source is the Companies House web site (37% of respondents, accessing daily or more frequently), followed by the Gazettes (30%, 1 to 4 times a month), and the Insolvency News online service (24%, 1 to 4 times a month) (**Figures 11, 12 and 13**). Other key sources included Creditsafe, Dear Insolvency Practitioner (Insolvency Service), Geoff Swire, Individual Insolvency Register (Insolvency Service), and, R3 (Association of Business Recovery Professionals).

5. The use of The London Gazette by Insolvency Practitioners for business development purposes.

Only 9% of the respondents report using the Gazettes for business development purposes (**Figure 19**). However, larger practices are twice as likely as the average to use the Gazettes for this purpose (18% of respondents with an annual fee income of £25m or more) (**Figure 20**).

Examples of such use included:

- *"Identifying winding-up petitions"*
- *"Monitoring insolvency activity in certain regions and where applicable establishing whether the accountants/*

lawyers are known to the firm"

- *"To analyse number of MVLs"*
- *"To identify appointing parties (e.g. administrations) and ascertain whether our relationship with them needs further development"*

6. The use of The London Gazette by Insolvency Practitioners for competitive tracking purposes.

14% of the respondents reported using the Gazettes for competitive tracking (**Figure 21**). Larger practices were much more likely than the overall sample to use the Gazettes for this purpose (33% of respondents with an annual fee income of £25m or more) (**Figure 22**).

Examples included:

- *"Analysis of appointments/appointers"*
- *"Awareness as to what other firms in Belfast are obtaining appointments"*
- *"Collating numbers of appointments of other firms"*
- *"Monitoring Trust Deed numbers & Liquidation appointments"*
- *"Review of MVL appointments"*
- *"To check on block transfers of appointments"*
- *"To identify firms being appointed and to the business sectors"*

But judging by their related comments, many respondents may not draw any distinction between the concept of business development and competitive tracking.

7. Whether there are specific areas of insolvency (corporate in particular) to which value/effectiveness could be added through Gazetting – Law of Property Act Receivership for example.

This aspect has been covered by objective 3.

8. Whether access to *London Gazette* data has stimulated niche, value generating service industries (e.g. services which consolidate information on dividends).

This topic was not addressed by the online survey, but Respondent Poplar, an IP, said that he uses the Gazette to identify areas of new business. Specifically, to look at activity at particular addresses; repeated insolvencies at particular addresses; patterns with directors and phoenixism in relation to companies, i.e. s.216 IA86 issues where the same director is associated with substantially similar name companies to the company that has gone into an insolvency procedure. He also uses the Gazette to examine where repeated IP contact with directors undertaking s.216 IA86 type activity is occurring.

9. Whether there is evidence that creditors find *The London Gazette* an effective way to find out about events.

This topic was not addressed by the online survey, and seeking this evidence via respondents/interviewees would have meant that they were acting as a proxy for creditors.

Respondent Poplar (IP) was unable to answer this question, but Respondent Oak (IP) said (noted earlier):

"... a local painter and decorator looking for a creditor isn't going to look in the Gazette for notice that he's got to prove his debt to me ... I don't know do normal lay people read the Gazette? I don't think they do to be honest with you. I think it's very much used by professionals."

A survey of creditors directly would be needed to help resolve this issue.

10. What are the benefits and disadvantages of a *London Gazette* type service as compared with a Companies House type register service or an insolvency register type service.

This topic was not addressed by the online survey, but Respondent Poplar (IP) said Companies House (CH) microfiches meant waiting a day before online access was possible.

When CH went online it was a 'stunning piece of software', and it remains that compared with the Gazette which is more 'adequate'. Companies House Direct was a revolutionary change in his view. Downloading a PDF from the Gazette web site seems to be a much narrower document and CH has much better search functionality. The Gazette is less bespoke and CH is more user-friendly. He felt that the online Gazette is written by an IT professional doing it in 'a nice way' as opposed to the more user-friendly CH interface.

Respondent Poplar felt that the categorisation at CH is much more useful. However, the Boolean general text search for the Gazette is good and this is not something one can do at CH. If searching by liquidator, all of the liquidator's appointments can be sought on the Gazette but not with CH.

11. The research would also investigate potential ideas and areas for expansion regarding how *The London Gazette* could extend its service in non-mandatory directions

This aspect has been covered by objective 3.

Discussion

It is clear from this survey that IPs require a number of additional features from the Gazette which will improve their practice on a day to day basis when using insolvency information. If the Gazette does not incorporate some of the ideas or functionality improvements that have been suggested by users, then IPs will (and do) seek their insolvency information elsewhere. We therefore recommend that the Gazette investigate the possibility of introducing new functionality. Particular areas for improvement include:

- Search engine functionality with improved filters
- Allowing information to be exportable to .CSV (comma-separated values) or .XLS (Microsoft Excel) format and generally downloadable
- Organising data according to insolvency process
- Standardisation of online adverts

For further areas of development see 'Suggested improvements to the presentation and content of Gazette insolvency data' (pp. 23-24).

A small focus group, or further contact with users individually, may provide further insight into the scope for improving the search capabilities.

Possible future developments

It is impossible to predict with accuracy how the future of insolvency practice might change and develop. However, some trends have been identified ¹⁵. For example:

- Increased IP scrutiny on conduct and fees following the recent Kempson review
- More debtor education initiatives
- A reduction in the number of recognised professional bodies
- An increase in bankruptcy tourism
- More focus on miscreant directors; and
- A rise in debt relief orders as the main personal insolvency solution, as opposed to bankruptcy.

These themes are already seeing some development in practice. The increase in bankruptcy tourism, for example, must actuate on the minds of Gazette developers because of the potential for insolvency information publication in non-standard jurisdictions.

Further themes or developments that might occur in the future of insolvency law and practice that the Gazette might wish to considered are:

- The abolition of the Insolvency Service to be replaced by a private sector organisation and to what extent would that effect the Gazette's offerings
- The privatisation of insolvency relationships

¹⁵ See further: Tribe, J., *Crystal balls and insolvency: what does the future hold?* (2012) *International Company and Commercial Law Review*, 23(12), pp. 405-411.

- The Increased Global Harmonisation of Insolvency Regulation with the increased potential to offer insolvency information into other jurisdictions (as with bankruptcy tourism above); and
- An Increase in the Costs (and Associated Fees) of Administering the Insolvency System and how this might impact of Gazette information users' budgets.

All of these potential developments (and more) will impact on insolvency information and *ergo* the Gazette.

The Gazette may wish to investigate how their offering might anticipate changes in the profession. Some of the answers to this survey, particularly the qualitative answers, highlight some areas that are ripe for consideration. For example, the critique of functionality, particularly in relation to searching the material already contained on the database but also the change in areas of procedure use, i.e. the increase in Debt Relief Orders (DROs). The above areas for development highlight future trends that might be anticipated now in terms of the Gazette offering. Any reformulation of the product should take account of these potential shifts in market practice.

The latest statistics release from the Insolvency Service shows that they have perfected and improved their information offering ¹⁶. Highlights include a new sector breakdown for corporate insolvency. This shows the number of liquidations by broad industry sector. The free offering from the Insolvency Service in terms of statistical information is of use to IPs for sector monitoring purposes. It is perhaps for that reason that the Insolvency Service have also in their last statistics release made the information available for the first time is a comma separated value (.CSV) file containing all of the headline statistics. This .CSV file was made available in response to feedback from users of the Insolvency Service's statistics. The Insolvency Service statistics still lack one fundamental quality however that the Gazette is able to capitalise on, namely, timeliness of delivery of information. The quarterly time lag between Insolvency Service statistic release is not something which the Gazette

¹⁶ <http://www.insolvencydirect.bis.gov.uk/otherinformation/statistics/201311/index.htm>

suffers from. The Gazette is able to release insolvency information instantaneously. Further ways of increasing insolvency information provision capitalising on this quality should be investigated.

Finally, Mr Justice Morritt's contention:

"I consider that the efficacy of an advertisement in the London Gazette has been exaggerated by both sides. No doubt it alerts the company's bankers so that an order under sec. 127 of the Insolvency Act may be required in order that the company may continue to trade. But I do not think that the Gazette is so widely read that an advertisement would alert ordinary trade creditors, who would not discover the existence of the petition by other means anyway. By the same token, the Secretary of State's concern that a petition presented in the public interest should be brought to the attention of the public is hardly allayed by advertising it in the Gazette. Nevertheless, the rules require advertisement unless the court otherwise directs. Thus it is for the company to show sufficient reason to depart from the normal practice."

The contention that, *inter alia*, the Gazette's readership is relatively small and limited to banks, and that advertisement does not always alert ordinary trade creditors, has not been proved either way by this work. What this research has shown however is that the professional IP readership do find that the Gazette is of considerable benefit to their work. This is in both the statutory sense of compliance with compulsory advertisement, which they must do, but also with the wider use of the Gazette that has been evidenced in this report.

Further research

- **Improving current insolvency data** - the Gazette may offer a useful opportunity to improve upon the current insolvency data, requiring an analysis for each edition falling within a given time frame. The adoption of an automated process, using data held in a standardised format,

may make this a relatively simple and straightforward task.

- **Early awareness of insolvent debtors amongst the business community** - a survey of UK businesses, enquiring into the predominant channels by which they first learn about insolvent debtors, could help to clarify the role of the Gazette in assisting trade creditors. The sample might be sufficiently large to ascertain whether there are any particular issues for consideration in terms of one or more of: small and/or medium-sized enterprises (SMEs), broad industry sectors, and, the regions.
- **Profiling the IP sector** - there may be some scope for analysing 'mandatory' membership data, for example, as gathered by an IP body such as R3, to provide a more comprehensive and reliable profile of the sector.
- **Regular usage of regional editions of the Gazettes** - our sample contained only a small number of respondents who were based outside England, but a further survey and/or analysis of Official Receiver activity might provide a further insight into regional variations.

In-house surveys

As noted earlier, there is a marked difference between the Kingston and TSO online surveys, whereby 41% of the TSO respondents rate the Gazette service standards as 'excellent', compared to only 12% of the Kingston respondents (**Figure 24**).

The variation may be influenced by the differences in sample compositions, with the Kingston sample predominantly comprised of IPs, in contrast to the dominance of IP support staff in the TSO sample (**Figures 1 and 2**).

But perhaps more influential is the difference in target audience: whereby affiliation to the Association of Business Recovery Professionals (R3) predominates amongst the Kingston target audience, compared with contacts for the TSO target audience.

- **Composition of surveyed samples** - the target audience for survey invitations needs to be kept in mind when

interpreting survey responses, as does the final sample composition and likely bias. Questionnaires should solicit key information which may help to gauge the extent of any bias, such as respondent key function, age, gender, physical location, staff size, highest qualification and professional affiliation.

- **Generalising findings to a larger population** - in the absence of a random sample, generalising is problematic (see Appendix 2). But with relatively small populations, random selection can be impractical. Comparisons with other surveys may be helpful, but bias - especially self-selection bias - is an attendant risk.

APPENDIX #1: STATUTORY PROVISIONS THAT REQUIRE THE GAZETTING OF INSOLVENCY INFORMATION

In addition to specific mentions of *The London Gazette* throughout the IA86 and the IR86 there is also specific guidance on LG notices within Chapter Seven of the IR86. This section of the rules stipulates, for example, that all notices published must specify insofar as it is applicable in relation to the particular notice:

- “(a) the name and postal address of the office-holder acting in the proceedings;
- (b) the capacity in which the office-holder is acting and the date of appointment;
- (c) either an e-mail address, or a telephone number, through which the office-holder may be contacted;
- (d) the name of any person other than the office-holder (if any) who may be contacted regarding the proceedings;
- (e) the number assigned to the office-holder by the Secretary of State; and
- (f) the court name and any number assigned to the proceedings by the court.”

In terms of the authority of the Gazette it is noted in IR86, r.12A.37 that a copy of the Gazette containing any notice required by the Act or the Rules to be gazetted is evidence of any facts stated in the notice. In the case of an order of the court notice of which is required by the Act or the Rules to be gazetted, a copy of *The London Gazette* containing the notice may in any proceedings be produced as conclusive evidence that the order was made on the date specified in the notice.

The rest of Chapter Seven IR86 contains further guidance on form and substance. We must now however examine the specific instances of where gazetting is mentioned in the statute and rules. The following paragraphs highlight the statutory provisions where gazetting is specifically required.

(A) CORPORATE INSOLVENCY

Liquidation

- **Notice of resolution to wind up:** s.85
IA86 stipulates that when a company has passed a resolution for voluntary winding up, it shall, within 14 days after the passing of the resolution, give notice of the resolution by advertisement in *The London Gazette*. Failure to comply with this section can result in a fine.
- **Final meeting prior to dissolution:** s.94
IA86 again relates to liquidation and the LG. The section notes, inter alia, that the pre-dissolution meeting shall be called by advertisement in *The London Gazette*, specifying its time, place and object and published at least one month before the meeting.
- **Effect of company's insolvency and MVL creditors meetings:** s.95
IA86 stipulates that notice of the creditors' meeting for MVLs¹⁷ is to be advertised once in *The London Gazette* and once at least in 2 newspapers circulating in the relevant locality (that is to say the locality in which the company's principal place of business in Great Britain was situated during the relevant period).
- **Meetings of creditors for Creditors' Voluntary Liquidation (CVLs):** s.98
IA86 stipulates that notice of the creditors' meeting is to be advertised once in *The London Gazette* and once at least in two newspapers circulating in the relevant locality (that is to say the locality in which the company's principal place of business in Great Britain was situated during the relevant period).
- **CVL final meetings:** s.106
IA86 stipulates that each such meeting shall be called by advertisement in *The London Gazette* specifying the time, place and object of the meeting, and be published at least one month before it.

¹⁷ On MVLs see: Richards, R. and Tribe, J., *Members' Voluntary Liquidations: Part 1: A Declaration of Under Use?* (2005) *Company Lawyer*, 26(5), pp. 132-136, and: Richards, R. and Tribe, J., *Members' Voluntary Liquidations: Part 2: MVLs compared* (2005) *Company Lawyer*, 26(11).

- **Liquidators appointment in MVLs and CVLs:** s.109 IA86 stipulates that the liquidator shall, within 14 days after his appointment, publish in *The London Gazette* and deliver to the registrar of companies for registration a notice of his appointment in the form prescribed by statutory instrument made by the Secretary of State. Again fines can be levied for a lack of compliance with this section.

- **Punishments under the IA86:** Schedule 10 outlines the punishment for, inter alia, failure to comply with s.85(2) IA86, namely, the company failing to give notice in *The London Gazette* of resolution for voluntary winding-up.

Administration

- **Moratorium Notice:** Insolvency Rules 1986 (IR86), r.1.40(2) stipulates that the directors of the company should as soon as reasonably practicable cause a notice of the coming into force of the moratorium to be gazetted. IR86 r.1.42(2) stipulates that a notice and advertisement of the end of a moratorium should also be gazetted.
- **Administrator's Appointment:** IR86 r.2.27 stipulates that the notice of appointment of the administrator shall be gazetted as soon as reasonably practicable.
- **Meetings to consider administrator's proposals:** IR86 r.2.34 and 2.35(4A) stipulates that an administrator must have gazetted a notice which, in addition to the standard contents, must state that an initial creditors' meeting is to take place; and the venue fixed for the meeting, the purpose of the meeting; and, a statement of the effect of Rule 2.38 (entitlement to vote).
- **Administration distribution:** IR86 r.2.95. stipulates that where an administrator is proposing to make a distribution to creditors he shall give notice of that fact and that, *inter alia*, that notice shall be gazetted.

- **Notice of the end of administration:** Pursuant to IR86, r.2.113 this should be gazetted.

Administrative Receivership

- **The administrative receiver's notice and advertisement of appointment:** IR86 r.3.2 stipulates that the notice of appointment of the administrative receiver shall be gazetted.
- **Administrative receiver's report to creditors:** IR86, r.3.8 stipulates that if an administrative receiver gives notice under section 48(2)(b), the notice shall be gazetted.
- **Procedure for summoning meeting under s.48(2):** IR86, r.3.9 stipulates that the administrative receiver as soon as reasonably practicable must also have gazetted a notice of the meeting.

(B) PERSONAL INSOLVENCY ¹⁸

- **Bankruptcy Annulment:** IR86, r.5.60 stipulates that the former bankrupt may in writing within 28 days of the date of the order require the Secretary of State to give notice of the making of the order. As soon as reasonably practicable the notice shall be gazetted. See also the gazetting requirements on annulment in IR86, r.6.213.
- **Bankruptcy Order:** IR86, r.6.34 stipulates that the official receiver as soon as reasonably practicable shall cause notice of the order to be gazetted. The notice shall include (pursuant to IR86, r.6.46(2A)) that a bankruptcy order has been made against the bankrupt; the date and time of making of the bankruptcy order; that the bankruptcy order was made on the debtor's own petition; and the date of presentation of the petition.
- **Bankruptcy Order Amendments:** IR86, r.6.35 stipulates that at any time after the making of a bankruptcy order, the official receiver or the trustee may apply to the court for an order amending the full title

¹⁸ See further: <http://www.london-gazette.co.uk/issues/recent/10/personal-insolvency>

of the proceedings. If the official receiver thinks fit, notice of the order shall be gazetted.

■ **Creditors meetings in bankruptcy**

proceedings: IR86, r.6.79 regulates the first meeting of creditors. If under section 293(1) IA86 the official receiver decides to summon a meeting of creditors, he shall fix a venue for the meeting; not more than 4 months from the date of the bankruptcy order. As soon as reasonably practicable, notice of the meeting shall also be gazetted and may be advertised in such other manner as the official receiver thinks fit.

■ **General Power to Call Meetings in**

Bankruptcy: IR86, r.6.81 relates to the general power to call meetings. The official receiver or the trustee may at any time summon and conduct meetings of creditors for the purpose of ascertaining their wishes in all matters relating to the bankruptcy. Notice of such meetings shall be gazetted.

■ **Trustee in Bankruptcy's Appointment:**

IR86, r. 6.124 regulates the advertisement of appointment of a trustee in bankruptcy. A trustee who is appointed by a creditors' meeting, as soon as reasonably practicable after receiving the certificate of appointment, shall give notice of that appointment. Such notice shall be gazetted.

■ **Final meeting of bankruptcy creditors:**

Pursuant to IR86, r.6.137 the trustee as soon as reasonably practicable after giving notice must have gazetted a notice of the final meeting.

■ **The Public Examination of a Bankrupt:**

Pursuant to IR86, r.6.172 where the official receiver thinks fit, a notice of the order shall be gazetted not less than 14 days before the day fixed for the hearing.

■ **Certificate of Bankruptcy Discharge:**

IR86, r.6.220 regulates the certificate of discharge. Where it appears to the court that a bankrupt is discharged, whether by expiration of time or otherwise, the court shall, on his application, issue to him a certificate of his discharge, and the date

from which it is effective. The discharged bankrupt may require the Secretary of State to give notice of the discharge. As soon as reasonably practicable such notice shall be gazetted.

■ **Bankruptcy and persons at risk of**

violence: IR86, r.6.235B stipulates that in any gazetting the details of the debtor to be included in any notice gazetted or otherwise advertised must not include details of the debtor's current address.

■ **Notice of Dividends (Bankruptcy and Winding up):**

IR86, r.11.2 stipulates that before declaring a first dividend the office-holder shall give notice of the intended dividend. As soon as reasonably practicable such notice shall be gazetted.

APPENDIX #2: NOTE ON SAMPLING & SMALL POPULATIONS

Like many other business surveys, the Kingston survey of IPs (and related personnel) is a 'non-probability' sample. In this case, of the 'availability' or 'convenience' type, constrained by targeting known groups of insolvency professionals.

Non-probability Sampling Techniques

Non-probability sampling is where samples are gathered in a process that does not give all of the individuals in the population equal chances of being selected (Crossman).

de Vaus (2002, p.88, p.90) notes:

"There are often situations where probability sampling techniques are either impractical or unnecessary.

In such situations the much cheaper non-probability techniques are used. These techniques are appropriate when sampling frames are unavailable or the population is so widely dispersed that cluster sampling would be too inefficient. For example, it would be very difficult to obtain a random sample of homosexuals or marijuana users. Any attempt to do so would either be so expensive that we would end up with a sample too small for meaningful analysis or the rate of dishonesty and refusal would produce such a bias that the sample would not be representative despite probability sampling methods ...

Purposive [or Judgmental] sampling is a form of non-probability sampling where cases are judged as typical of some category of cases of interest to the researcher. They are not selected randomly. Thus a study of leaders of the conservation movement might, in the absence of a clearly defined sampling frame or population, select some typical leaders from a number of typical conservation groups. While not ensuring representativeness, such a method of selection can provide useful information ...

Availability [or Convenience]

samples are also common but must be used with caution and only for specific purposes. These samples are the least likely of any technique to produce representative samples. Using this approach anyone who will respond will do. Surveys where newspapers ask readers to complete and return questionnaires printed in the paper, pop-up web surveys, or TV station 'phone-in' polls are examples of such samples. While these techniques can produce quite large samples cheaply their size does not compensate for their unrepresentativeness. This type of sample can be useful for pilot testing questionnaires or exploratory research but must not be used to make any claim to representing anything but the sample itself."

Probability Sampling Errors & Small (finite) Populations

"Probability theory enables us to say, with a specific degree of confidence, how likely the patterns in a sample are to reflect those in a wider population. Statistical generalisation relies on having randomly drawn representative samples and is the mode of generalisation used in sample survey research." (de Vaus, 2002, p.69)

So, whilst the following text applies only to survey samples which are randomly selected - 'probability samples' - it is included for background purposes and also indicates why larger samples may bring diminishing returns in terms of improved accuracy (de Vaus, 2002, p.81).

"There are several things to note about the relationship between sample size and accuracy.

First, when dealing with small samples a small increase in sample size can lead to a substantial increase in accuracy. Thus increasing the sample from 100 to 156 reduces sampling error from 10 per cent to 8 per cent. With larger samples increasing the sample size does not have the same payoff. To reduce sampling error from

2.5 per cent to 2 per cent we need to increase the sample by 900 cases. [i.e., from 1600 to 2500, and for a 50/50 split on a variable]

The rule is that to halve the sampling error we have to quadruple the sample size. Beyond a certain point the cost of increasing the sample size is not worth it in terms of the extra precision. Many survey companies limit their samples to 2000 since beyond this point the extra cost has insufficient payoff in terms of accuracy.

*Second, the **size of the population** from which we draw the sample is largely irrelevant for the accuracy of the sample. It is the absolute size of the sample that is important.*

The only exception to this is when the sample size represents a sizeable proportion of the population (e.g. 10 per cent). In such cases a slightly smaller sample is equally accurate. The calculation of sample size in this situation requires the application of a finite population correction ..."

Surveying via the Internet

de Vaus (2002, p.79) also noted, which is still generally valid a decade later:

"The fact that internet samples are unlikely, at the present stage, to be representative of the general population does not mean that they have no value or future. At present the internet can be a very useful means of obtaining representative samples of specific populations. Organisations in which all staff are online can provide excellent internet samples of the organisation. High access to the internet among certain sectors of the population (e.g. young middle-class males; professionals etc) means that the internet may be a viable means of obtaining quite good samples of these groups. Many associations collect email information from members. For members who are on the internet web surveys can be used while other

modes may be viable for those who are not 'wired'."

For the wider UK population in 2011, access to the Internet at home peaked at 90% for 35-44 year olds, falling to 73% for 55-64 year olds (according to Ofcom, 2011, p.8). Unsurprisingly, access for those aged 65 or older was lower, at around 40%.

APPENDIX #3: CEBR/R3 SURVEY 2008

A previous survey of IPs in the UK was published in 2008 (*The value of the insolvency industry*, CEBR, 2008), which used a similar survey methodology to the Kingston study, i.e., the target audience of R3 members received an invitation to participate via e-mail.

CEBR reported that they received a total of 169 responses, with 109 classifying themselves as IPs. At the time, there were 1774 IPs licensed in the UK, and thus the response rate was approximately 6% of IPs.

The aim of the CEBR/R3 survey was to assess the economic impact of the sector, but the findings contained some interesting similarities. For example, regarding the female and male age distributions of the IP respondents, the authors noted that:

“Although 79 per cent of insolvency practitioners are male, women are becoming a growing and significant part of the industry. The average insolvency practitioner is 46 years old. However, half of insolvency practitioners under the age of 35 are female. Within the females, seventeen per cent are less than 35 years of age; this compares with five per cent of males.”

This was accompanied by a graphical plot (**Figure 32**).

Notably, a comparable analysis, using the Kingston data for IPs only (**Figure 33**), displays a similar distribution, whereby the female IP respondents are typically a decade younger than their male counterparts.

Secondly, the CEBR survey reported that the predominant licensing bodies for IPs in the UK were, in descending order (**Figure 34**):

- 1) Institute of Chartered Accountants in England & Wales (ICAEW)
- 2) Insolvency Practitioners Association (IPA)
- 3) Association of Chartered Certified Accountants (ACCA)

This contrasts with the Kingston data, whereby the predominant first and second most prevalent

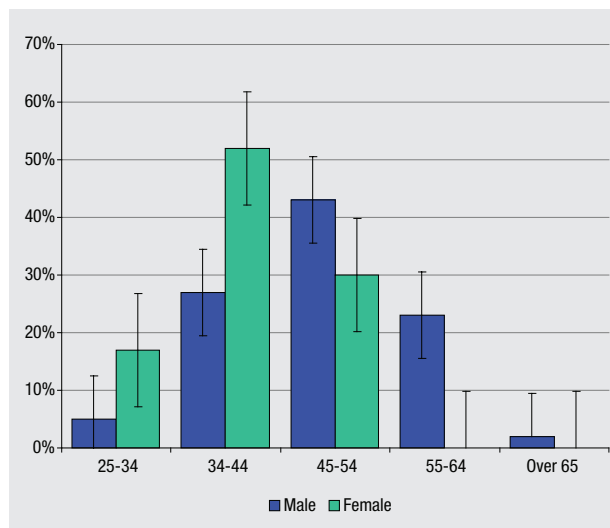
memberships of recognised professional bodies were reversed, with IPA membership being most common, followed by the ICAEW (**Figure 35**, derived from **Figure 25**).

One factor could be multiple memberships: 12% of the Kingston IP respondents reported that they were members of both ICAEW and IPA.

Respondent Poplar's view was sought on this issue, and he said that IPA membership is generally comprised of smaller practices and the IP partners in these smaller practices are more likely to be more 'hands on'. Whereas in larger practices other members of staff (other than the appointment-taking IP) do the work, and partners tend not to use the Gazette in those larger firms. For the Kingston survey it might therefore mean that an ICAEW-affiliated larger practice partner simply did not respond [or was less inclined to do so], whereas the smaller practice IP partner did (typically an IPA member).

Fig 32 - Survey Comparison (CEBR, 2008)

Age and gender of insolvency practitioners, United Kingdom, 2007



Source: cebr survey of R3 members, 2007, with standard error bars
[Figure 15, CEBR (2008)]

Fig 33 - IPs Only: Respondent Age (Q25) By Gender (Q26)

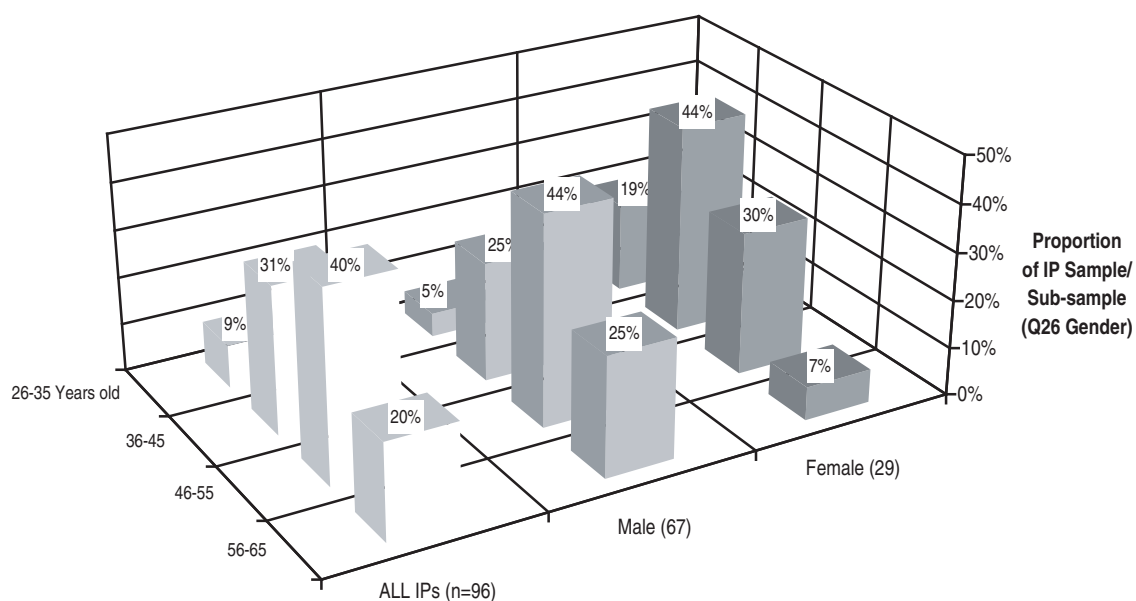
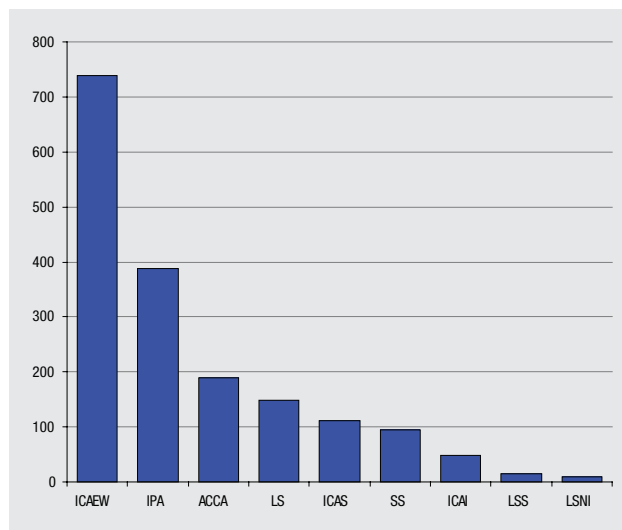


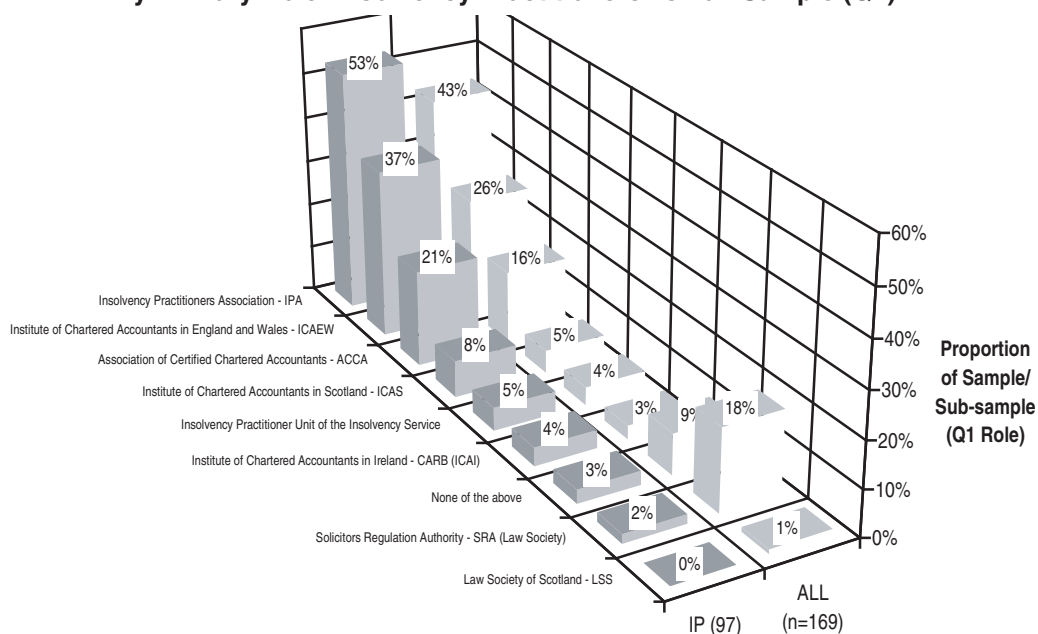
Fig 34 - Survey Comparison (CEBR, 2008)

**Number of insolvency practitioners by
licensing body, United Kingdom, 2007**



Source: The Insolvency Service, Law Society of Northern Ireland, specifically requested, October 2007 [Figure 7, CEBR (2008)]

**Fig 35 - Membership Of Recognised Professional Body (Q20),
By Primary Role: Insolvency Practitioners vs Full Sample (Q1)**



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